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THE REPORT OF THE CLAY COMMITTEE ON FOREIGN AID: A SYMPOSIUM

ON April 2, 1963, President John F. Kennedy submitted a message to Congress requesting an appropriation of $4,525,000,000 in new foreign aid funds and suggesting enactment of tax incentives to encourage the flow of private investment capital into the developing nations. In the course of his message, President Kennedy sketched the history of foreign aid since the Marshall Plan and put the nation's current effort in the context of immediate political needs and economic capacities:

> The United States today is spending over ten per cent of its gross national product on programs primarily aimed at improving our national security. Somewhat less than one twentieth of this amount, and less than 0.7 per cent of our GNP, goes into the mutual assistance program: Roughly half for economic development, and half for military and other short-term assistance. The contribution of this program to our national interest clearly outweighs its cost. The richest nation in the world would surely be justified in spending less than 1 per cent of its national income on assistance to its less fortunate sister nations solely as a matter of international responsibility; but inasmuch as these programs are not merely the right thing to do, but clearly in our national self-interest, all criticisms should be placed in that perspective. That our aid programs can be improved is not a matter of debate. But that our aid programs serve both our national traditions and our national interests is beyond all reasonable doubt.

"That our aid programs can be improved . . . that our aid

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programs serve both our national traditions and our national interests"—these phrases from President Kennedy's message may be taken as descriptive of the major conclusions of one of the most significant evaluations of government policy to have been undertaken in recent years, the Report of the Committee to Strengthen the Security of the Free World (the Clay Committee report).[1]

On March 20, 1963, three months after it had been appointed by the president, the Committee, under the chairmanship of General Lucius D. Clay, issued a report (George Meany dissenting) [2] evaluating the effectiveness of present foreign aid programs, suggesting criteria by which adequate performance might be measured, and, in some cases, proposing new goals for national policy. With the basic purposes of the current program the Committee was not in disagreement:

> There should be no doubt . . . of the great value of properly conceived and administered foreign aid programs to the national interest of the United States and of the contribution of the foreign assistance dollar in such programs to the service of our nation's security. . . . A foreign aid program is one instrument among many which we and other developed countries adequately can afford and vigorously must use in the defense and advancement of free world interests.

In the opinion of the Committee, however, there were sufficient reasons for concern with both the objectives of the current program and with its administration.

First, though it is clear that economic and social development can be achieved only when they are based on an *internal* expression of will and discipline, many countries receiving aid have not adequately utilized their own resources. Nor, indeed, has the United States insisted upon a higher

[1] "The Scope and Distribution of United States Military and Economic Assistance Programs." Report to the President of the United States from The Committee to Strengthen the Security of the Free World, March 20, 1963 (Department of State, Washington, D. C.). The members of the Committee are: General Lucius D. Clay, Chairman, Robert B. Anderson, Eugene R. Black, Clifford Hardin, Robert A. Lovett, Edward S. Mason, L. F. McCollum, George Meany, Herman Phleger, Howard A. Rusk, M.D.

[2] Since Mr. Meany is participating in the symposium that follows, no attempt will be made here to discuss his dissent.

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level of performance as the price of granting aid. Under such circumstances, the majority of the Committee felt, foreign aid becomes, in effect, a program of continuous subsidy.

Second, the capacity of many of the less developed countries to absorb foreign aid is limited by scarcity of trained manpower and adequate local institutions. The rapidity of population growth, moreover, tends to wipe out short-term gains and accentuates social unrest.

Third, there is increasing evidence that the American people feel that other industrial nations, having recovered their prosperity, should assume a larger share of the foreign aid burden than they are now carrying.

Fourth, the foreign aid program has been a major element in the persistent deficit in international balance of payments that has plagued the United States for twelve of the last thirteen years.

Fifth, there have been weaknesses in the effective coordination of overlapping agencies in the foreign aid field.

It was the conclusion of the Committee that "we are indeed attempting too much for too many and that a higher quality and reduced quantity of our diffuse aid effort in certain countries could accomplish more." The receipt of "optimum value" from our assistance programs depends, however, upon the existence of national goals that are clearly defined and national expectations that may reasonably be held. For that reason, the Clay Committee placed its specific programmatic recommendations—for aid to countries on the borders of Soviet Russia and China, to Africa, to Latin America, and the like—within a broad context of considerations of general policy. The attitude of the Committee with respect to aid to nations that do not always agree with U. S. policy provides a case in point: ". . . aid to countries which are avowedly neutral and sometimes critical of us may be in order, so long as their independence is genuine, their overall behavior responsible, and their use of their own resources prudent and purposeful."

Perhaps somewhat more controversial were the recommendations laid down by the Committee to govern policy toward countries with economic systems different from our own.

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> Our aid should help create economic units which utilize not only limited government resources wisely but mobilize the great potential and range of private, individual efforts required for economic vitality and rapid growth. . . . We believe the U.S. should not aid a foreign government in projects establishing government-owned industrial and commercial enterprises which compete with existing private endeavors.

The Committee acknowledged that it would be inappropriate, in aiding foreign countries, "to insist upon the establishment of our own economic system," but it concluded that

> we should not extend aid which is inconsistent with our beliefs, democratic traditions, and knowledge of economic organization and consequences. . . . Countries which would take this route [that is, the route of politically-operated, heavily subsidized state enterprises] should realize that while the U.S. will not intervene in their affairs to impose its own economic system, they too lack the right to intervene in our national pocketbook for aid to enterprises which only increase their costs of government and the foreign assistance burden they are asking us to carry.

Finally, in its attempt to establish the guidelines that should govern specific decisions, the committee insisted that —once the decision had been made, on grounds of "enlightened self-interest," to aid a country—the kind and amount of aid should be based upon strictly economic criteria. The "vagaries of ephemeral world opinion" had at times in the past influenced the United States to embark upon programs in which the national treasure was expended without proportional gains in increased national security. The firmness of U.S. negotiating positions had been weakened, efforts to make aid more effective by obtaining much-needed local reforms had been undermined, and both congressional and public support for foreign aid had been sapped by the all-too-frequent readiness of the American government to give aid that could not be justified by economic criteria but was undertaken only for the purpose of purchasing temporary political surcease.

Guided by these general considerations of policy, the Committee made the following recommendations:

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(1) *The Border Areas*

Countries on the borders of the Soviet Union and China should continue to receive military and economic aid, but the amount and kinds of such aid should be subject to continuing review. In some countries, military forces are larger than required for the immediate mission of defense; there, substantial reductions of both kinds of aid could easily be made. In other countries, especially in southeastern and western Asia, military assistance is not essential to free world security and should be ended. India, Pakistan, and Indonesia, however, require special consideration. The first two countries comprise the "only area of South Asia able to offset the Red Chinese colossus. Unless their freedom and economic growth continue, there can never be a balance of power in Asia. . . ." It is essential, therefore, that both forms of aid be continued, but it would be difficult to justify doing so at present rates unless "other free world countries continue and extend their support on terms comparable to our own." Assistance should not be granted to Indonesia, however, unless that country "puts its internal house in order, provides fair treatment to foreign creditors and enterprises, and refrains from international adventures." Aid to Greece and Turkey should be continued, though at a declining rate as other NATO members increase the scope of their aid.

(2) *Africa*

Primary responsibility for economic assistance to the new nations of Africa rests upon the former colonial powers. ". . . the United States cannot undertake to support all of the African countries especially when their ties with other free world nations are largely elsewhere."

(3) *Latin America*

Adequate and timely economic aid is essential to achieve stability in Latin America, but at best such aid can be no more than a catalytic agent "to supplement the attitudes and actions of indigenous governments and societies." Assistance under the Alliance for Progress should be granted only upon

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reasonable progress by the Latin American governments themselves toward the attainment of explicitly stated political and economic reforms. If these development goals are to be achieved, the offering of incentives to the private sector must be encouraged:

> Impediments to the growth of private enterprise must be identified and treated, the shallowness and harm of doctrinaire biases against responsible private enterprise exposed, new sources of credit opened to medium and small Latin American businessmen, and foreign investment encouraged in the confidence that all governments now have means to protect themselves against potential abuses.

(4) *Sharing the Assistance Effort*

The revived nations of western Europe, Canada, and Japan must take up an increasing share of the burden of economic assistance, but it is unrealistic to assume that they will do so as long as the United States "is apparently willing to bear more than" its fair share. The United States must, therefore, make known its views on these matters to the other aid-giving countries.

The remaining recommendations of the Committee dealt for the most part with technical assistance, specific programs now in existence (like the Food for Peace Program), military base rights, and problems of administration.

As a contribution to continued public discussion of this important state paper, the *Political Science Quarterly* has asked five distinguished citizens, all of whom have had considerable experience in problems associated with foreign aid programs, to present their views of the Clay Committee report.

JACOB VINER

Emeritus Professor of Economics, Princeton University

In this, its first report, the Committee concentrates on the contribution our foreign aid program can make to the security of the free world, but gives attention also to its possible service to other weighty national objectives. Foreign aid on a systematic and continuing basis is a relatively new element in international relations. Its unilateral nature and

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its transcendence of the discipline enforced by the bargaining or commutative element in foreign trade and international finance deprives it of any self-generated limitation of its scope or fashioning of its design. There is no well established and coherent doctrine to provide clear guidance for decisions as to its scale, range, and pattern. The body of past experience is not yet rich enough, nor widely enough available for study, to provide of itself a substantial basis for decision-making. The possible range of objectives which foreign aid can and should be made to serve, the extent to which these objectives are harmonious with each other, their relative weight, all of these are inherently matters for judgment and debate. Whatever funds are provided for foreign aid must be withdrawn from other uses, some of them with presumably comparable or superior claims to support. No neat formulas are available or attainable which simplify the task of reaching decisions, although some spurious ones have been proposed. The administration, the Congress, and the public urgently need the guidance of wise and experienced men, whose dedication to the public good is unquestionable, and who have pondered, explored, discussed, and reached a consensus on the objectives to be served, the relative weight to be given them, the desirable scale and distribution of the aid to be given, and the principles and procedures to be followed in the administration and execution of the program, once it has been adopted. The Committee has been assigned this difficult task, and its first report makes a valuable contribution, excellent in form and spirit, persuasive in content. A large number of important recommendations of varying degrees of concreteness are made in the report, generally supported by informed and judicious argument. Ultimate decisions will be made elsewhere, but they will be better decisions if in reaching them the administration and the Congress give to the recommendations of the Committee the consideration they eminently deserve.

The Committee accepts as essentially non-controversial that foreign aid on a substantial scale, to many countries, and in many forms, is presently necessary to our national interest, and especially to the security of our country and of the free world in general, and will continue to be necessary for some time into the future. It finds, however, that our aid pro-

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gram has been allowed to grow to overly large dimensions, has been distributed over too wide a range of countries, and has been given with too few strings attached, from the point of view both of our deriving the maximum attainable amount of benefit for ourselves and of doing what we can to assure that the aid we give imparts the maximum amount of benefit to the recipient countries. It is dissatisfied with some of the grounds on which aid has been granted by us in the past, and with the manner in which some recipient countries have used the aid they received. It has found evidence of some degree of loose administration of aid in the past, and urges a general tightening in the selection of recipient countries, in the requirements for repayment, and in the commitments to be asked of the recipient countries as to the pattern of use of the aid they receive. It presents no precise formulas—and wisely, I think—according to which the objectives of our aid program should be pursued, but confines itself in the main to general counsel with respect to goals and to administrative procedures. It makes the recommendation, repeated several times, that we should press other advanced countries to accept responsibility for a larger share of the task of aiding the poorer countries. It warns against our committing ourselves indefinitely to foreign aid as a routine element in our foreign economic policy, while recognizing that there are unquestionably valid and adequate grounds for engaging in it under existing circumstances.

This is all in its general lines very persuasive to me, both in the light of my own judgment, such as it is, in these matters and on the basis of my confidence in the wisdom, the experience, and the information possessed by the Committee with reference to matters on which I have no claims to competence. I especially like the stress the Committee placed on the need for recognition of the fact that we have no economic resources for which there are no alternative uses of comparable urgency, and that what we allocate to foreign aid must directly or indirectly be diverted from other worthy causes, public or private.

The Clay report will nevertheless undoubtedly be met with criticism and dissent from various quarters and on various grounds. Enthusiasts for foreign aid who value it primarily on humanitarian or ethical grounds as a potentially

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mighty instrument for the exercise of universal benevolence will not be pleased by the stress of the Committee on the finite character of our economic resources, on the multitude of claims on these resources which call for consideration when we are deciding how much foreign aid we can reasonably afford to give, and on the desirability of pressing recipient countries to assume and faithfully to endeavor to fulfill obligations to the general objectives of the program as a condition of eligibility for aid. These enthusiasts tend to look through rose-colored spectacles at the past record of achievement through foreign aid, to ignore, or deny, or minimize the existence of worthy rival claims to the resources which they wish to have allotted to foreign aid, and to argue that not only in special cases but in a wide range of circumstances the United States will derive more economic benefit for itself by aid to other countries even on an outright grant basis than by the current public or private, investment or consumption, use of the resources at home which foreign aid precludes.

There is really no limit to the philanthropic zeal of some warm-hearted individuals. Some of them, no doubt, now that outer space is so much in our thoughts, find even a global scale for our philanthropic endeavors too confining, and will be eager, as soon as it should become physically possible, to apply to the foreign aid field the doctrine already expounded, in all sincerity, by an American philosopher that

> the only ethics that makes sense on a metaphysical level is a universal ethics, for which the good of individuals has validity only because it contributes to a good beyond all terrestial individuals and nations . . . we need to connect ultimate philosophical ideas with ideas from astronomy, such as the notion of 'planets by the billion.' . . .

Nor would it be prudent to ignore the enthusiasts of foreign aid, for without their ardent support in the past it seems doubtful to me that our foreign aid program would have been politically viable on anything like its past or present proportions. From them, and from others also, whose belief in the virtues of foreign aid in the present state of the world, though more moderate, and resting more on prudential considerations, is nevertheless strong, there will be expressions

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of disappointment that the Committee came close to proposing a reduction in the present scale of foreign aid and that, by its criticisms of the planning and administration of the program in the past and of the poor performance of some receiving countries, it provided ammunition to those who were hostile to the program as a whole or would at least welcome its being radically reduced in scale. It seems probable to me, however, that the Committee's report will aid rather than hinder the administration in obtaining approval of its proposals from Congress, provided that the administration convinces Congress that it has given the most serious and conscientious consideration to the Committee's recommendations, and that its program has been revised and tightened accordingly.

The path of foreign aid appropriations this year is beset with special obstacles. We are already running a sizable budgetary deficit and are planning an even larger one via increased expenditures and reduced tax rates. Our international balance of payments has for several years running been in bad shape, and nothing that is clearly visible today, either in the behavior of our national economy or in any remedial program of action on the part of the administration, makes it seem less likely that it will deteriorate further than that it will come closer to equilibrium in the next year or two. It is unfortunate also that foreign aid is itself a significant contributing factor to our international imbalance, and that while there are many ways in which that imbalance can be lessened or eliminated without recourse to reduction of foreign aid, there seem to be few steps in that direction which would be painless for us to take or which would not involve for other countries, including the candidates for aid, unfavorable and unpleasant economic impacts. I would suggest, moreover, that the Committee accepted too unqualifiedly the argument of the administration that the unfavorable impact of the foreign aid program on our balance of payments is limited to the annual amount by which the total in dollars of such aid exceeds the expenditures on foreign aid account on American goods and services. Their argument is valid in direction but not in degree. Some portion of the American goods and services which enter into our aid program would in the absence of that program be directly or indi-

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rectly diverted to exports on commercial account or serve as substitutes for imports into this country. It is arguable also that the domestic taxes which wholly or largely finance our foreign aid program operate to lessen the competitive ability of our export industries and our import-competing industries.

On the other hand, I would not go along with the Committee's proposition that the health of our national economy is dependent upon the maintenance of international dollar convertibility "at the existing gold parity," unless there were added, as a minimum, "or at a gold parity internationally agreed upon." Exchange depreciation is not for a country like the United States a simple matter of unilateral action (or failure to act), and an attempt to bring it about, if resisted by other countries, could lead to major damage, economic and political, for us and for them. An internationally agreed upon change in the currency prices of gold, on the other hand, would be less disturbing both economically and politically. Although I see very little potential benefit in it, either for our economy as a whole or for the state of our balance of payments, as of this year, the time may come before long when it, or something close to it, will be necessary if the international financial mechanisms are to continue to operate smoothly.

The Committee states its belief that to achieve to the maximum the goals of the foreign aid program, including maximum contribution to the economic vitality and growth of the recipient countries, the aid should be so planned and allocated as to provide additional incentives to private enterprise in the countries aided rather than to help finance encroachments by governments on private enterprise. I approve of this recommendation, and I think there was need for it. But delicate issues are involved here, and they are not all simple issues of the relative economic merits of public and private enterprise. Government entrance into an industry in which private concerns are already operating presumably constitutes government competition "with existing private endeavors." There may, however, be cases where domestic private enterprise cannot finance expansion to the degree regarded as needed, and where foreign private enterprise cannot find attractive enough profit prospects to engage

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in the needed expansion or would not be tolerated by public opinion, so that the only practicable alternatives are government enterprise or nothing. There may be cases where private enterprise has no claims to superiority in efficiency over government enterprise. We may justifiably prefer private to government enterprise when there is a real option and so conduct our foreign aid program as to reflect that preference. But as formal policy, in the interest of our own foreign goals, I think that the furthest we can safely go is to ask that choice between government enterprise and private enterprise in matters where foreign aid is substantially involved shall not be made in flagrant conflict with the apparent economic merits of the two in the relevant instances. We should also explore to the utmost the possibilities of using our own initiative to strengthen private enterprise in such countries by offering our cooperation, as part of our aid program, in discovering what are the obstacles, financial or technical, to the expansion in needed directions of private industry, and in helping to provide the requisite remedies. Here the establishment of contacts with business organizations in such countries, contacts in which the governments on both sides, our businessmen, and their businessmen, all participate, might prove an effective procedure where governments were not definitely hostile to private business.

The Committee recommends "the gradual shifting to effective international administration, free of the complications arising from membership of the Soviet Bloc, of as large a share of the responsibility for developmental investment as the cooperation of other free world aid-giving nations makes possible." The implication here is that the arrangements and institutions shall be such that the administration will be in the hands predominantly of donor countries. The reasons given by the Committee in support of this recommendation seem cogent to me. I would add two further advantages of multilateral procedures as compared to bilateral arrangements: the necessary personnel could be recruited from a wider area, and probably at lower cost per expert of equal qualifications; restrictions of the "Buy American" type would be eliminated. Perhaps these two points are really only one.

Mr. George Meany's dissent from the report argues strongly for enlarging, instead of reducing, the scale of our foreign

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aid, but omits discussion of the budgetary, and balance of payments, implications of so doing. The questions in issue do not have "correct" answers, but must be decided by the play of different men's judgment, information, and values. I am drawn by the general trend of the recommendations of the remainder of the Committee, but I respect the weight of Mr. Meany's dissent, and hope it will serve the useful purpose of weakening the opposition of those hostile to almost any aid at all to the Committee's recommendation of the continuance of a substantial program of aid. Mr. Meany objects that "The report gives no documented basis for proposed reductions," but neither does he give a documented basis for an increase in the program or even for its maintenance at its present level, and in both cases this would have been in the circumstances too much to ask for, and of doubtful value if accomplished. The presentation of a general consensus of judgment, and of warning signals with respect to particular practices and shortcomings in the program as it has evolved, and the formulation of some guiding principles: these were the services which in the circumstances it could be hoped that the Committee would render, and, in my judgment, its report meets these requirements admirably.

Mr. Meany asks that organized labor in the United States and in the underdeveloped countries be permitted and encouraged to participate in the planning and execution of foreign aid programs. Without entering into a discussion of the legitimate modes of such participation, I agree heartily in principle, but I would extend the facilities for, and encouragement to, participation to business organizations here and in the underdeveloped countries also. Support of the programs by one or both of these groups is in many countries essential to a successful outcome, and in any case is desirable as a matter of democratic process.

FOWLER HAMILTON
Formerly Administrator,
Agency for International Development

On December 10, 1962, President Kennedy appointed a Committee to Strengthen the Security of the Free World.

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The purpose of the Committee is to advise the President, the Secretary of State, the Secretary of Defense, and the Administrator of the Agency for International Development on U.S. government foreign operations programs in the economic and military fields. This Committee (popularly known as the Clay Committee after its eminent chairman, General Lucius Clay) has nine members. The first task given by the President to the Committee was: "To examine U.S. military and economic assistance programs to determine whether their scope and distribution was contributing to the optimum security of the United States and the economic and political stability in the free world" (p. 1 of the Committee's report).

After three months of study and investigation, including extensive hearings with officials of the Agency for International Development (AID), the Committee issued a report in which the members gave their "general views on how the foreign assistance program should be conducted." One member of the Committee, Mr. George Meany, entered a vigorous dissent.

Both the size and complexity of the programs that the Committee had under review and the undesirability of singling out specific countries for critical comment properly required the Committee to state its views in general terms.[1]

It may aid in understanding the Committee's report and also in comprehending the scope and difficulty of the tasks that face the Committee if we recall the main facts concerning two basic points: (1) why the U.S. has had foreign aid programs, and (2) what those programs have been.

I

At the end of World War II, as at the end of World War I, the American people were seized with a profound and perfectly natural desire to return as quickly as possible to a normal way of life. In the field of foreign affairs, this meant a return to that isolationism and neutralism that had characterized our foreign policy since George Washington's warning against "entangling alliances." This national mood

[1] The report (p. 1) notes that the views of the Committee "concerning specific countries have been discussed at length with the Administrator of the Agency for International Development."

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was reflected in two important actions. On August 1, 1945, even before the end of hostilities with Japan, President Truman somewhat abruptly ended Lend-Lease, the first great modern U.S. foreign aid program. Between August 14, 1945, the end of hostilities with Japan, and June 25, 1946, nine million men and women were demobilized from the United States armed services. Both actions met with widespread and enthusiastic public approval.

Despite the apparent decisiveness of these actions, this return to isolationism was thoroughly reversed in less than two years when two new foreign aid programs were started. These have brought total postwar foreign aid programs to almost $100 billion, or twice total Lend-Lease expenditures of $48.5 billion. The first of the two programs was launched in March 1947 with the promulgation of the Truman Doctrine under which the United States offered aid to nations that wished to maintain their independence against the threat of communist aggression or subversion. The second was initiated less than ninety days thereafter. On June 5, 1947, Secretary of State Marshall proposed that the United States should extend aid to any European country, not excluding communist countries, willing to cooperate with the United States in measures designed to avoid the kind of economic and political chaos that then threatened the nations of western Europe.

These two measures, the Truman Doctrine and the Marshall Plan, sounded the two *motifs* that for long characterized all U.S. aid programs—security against communism and security against chaos.

Latterly, U.S. foreign aid programs have moved into a development phase to strengthen an international society of independent states.

To speak very generally, two sets of circumstances caused this sharp and seemingly permanent reversal of traditional American foreign policy. One was the growing plight of the postwar world outside the United States; the other was the drastically changed position of the United States in the new world of the postwar era.

Although there were three victors in World War II, the United States, Britain, and the U.S.S.R., the latter two were almost as damaged and war-weary as the vanquished. Only

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the United States was markedly stronger at the end of the struggle than at its beginning. The futures of regions beyond the boundaries of these three were, with rare exceptions, precarious and uncertain.

In mainland China, the world's most populous society was foundering towards communism on a sea of chaos. In the great Indian sub-continent, the world's second most populous society faced the imminent withdrawal of British power as well as the certain prospect of uncertain amounts of violence and disorder. In Southeast Asia, societies recently freed from the dominion of Japanese power and charged with anti-colonialist fervor were falling progressively prey to the contagion of violence and disorder that was spreading from the Chinese mainland throughout the Southeast Asian peninsula to the Netherlands East Indies (as they then were) and to the Philippines. In the eastern Mediterranean area, uncertainty was compounded when, in February 1947, the British Government announced that it could no longer be responsible for security in that unstable era, where Western power was so weak that communist guerrillas controlled the mainland of Greece save a fragment of Athens. Europe, in the autumn of 1947, faced a bleak winter of social distress and possible political upheaval. As a consequence of the unprecedentedly severe winter of 1946 and of the disastrous drought in the summer of 1947, food and fuel were in critically short supply. To avert possible catastrophe, President Truman called a special session of the U.S. Congress in the fall of 1947 to appropriate over $500 million of emergency food and fuel relief to meet emergency needs in advance of Marshall Plan operations.

The second set of circumstances that gave rise to our foreign aid programs lay in the new international position of the United States. At the end of World War II, the United States was not only the leading power in the world, it possessed almost a monopoly of international power. As the exclusive possessor of atomic weapons and of a long-range system for their delivery, it had a near monopoly of the power for violence. It also had a near monopoly of foreign economic power, for it was the only country of consequence that had surplus wealth, that is, resources not needed for the subsistence of its citizens. For the first time

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in its history, it had an enemy, the U.S.S.R., intent upon undermining U.S. security. Also, for the first time in its history the United States became vulnerable to invasion from across the oceans that had so long been its natural bastions. Moreover, through the progressive dissolution of the old imperial systems that was to bring political freedom to almost one billion people in Africa and Asia, the United States found itself facing the most sweeping and sudden political changes that had occurred in the western world since the Reformation. Finally, great as was the military power of the United States, it was subject to three serious restrictions: (1) the immense destructiveness of atomic power largely limits its use to negative purposes, namely, to preclude the use of violence by others; (2) conventional military power is limited by two factors: one is the risk that its use might escalate into the use of atomic power, the other is the relative weakness of conventional military power as a means of extinguishing communist guerrilla warfare and insurgency in territories where the local populations and governments are unwilling to work and fight for freedom; and (3) there are serious limitations upon the use by the United States of conventional military power to protect countries from communist subversion or aggression.

The main responsibility for world leadership in the immediate postwar period and for leadership of the non-communist world ever since has been thrust upon the United States. The circumstances described above have compelled the United States to rely mainly upon persuasion in discharging the responsibilities imposed by that leadership. Foreign aid has been the principal U.S. argument in this immense exercise in persuasion.

II

If foreign aid be defined, as it generally is, to be all government-supported grants or loans of money or commodities to foreign countries or persons, then the United States foreign aid programs since the end of World War II have aggregated, in terms of appropriations, approximately $98 billion. Certain comparisons are relevant. Thus for the same period this total foreign aid equaled approximately one and a half per cent of the country's gross national product

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of $6,500 billion; it equaled approximately eight per cent of total federal government appropriations of $1,200 billion; and it equaled approximately sixteen per cent of total national defense appropriations of $620 billion.

Considerable light is shed upon both the purposes and effectiveness of these programs by an examination of the regions in which their resources have been expended:

(1) $45 billion have been expended in Europe.

(2) $40 billion have been spent either in countries that lie directly against the Iron or Bamboo Curtains ($32 billion), or in countries that are adjacent to the latter ($8 billion).

(3) $6.8 billion have moved to Latin America, but the preponderant part of these have been Export-Import Bank loans of a quasi-commercial character.

(4) $1.8 billion have been spent in Africa.

(5) $4.4 billion have been made available to international organizations.

III

The Committee's report is primarily concerned with current programs.

From one perspective it may be seen that the United States now has five interrelated foreign programs: (1) an immediate security program that is primarily military but also, on occasions, political; (2) the Alliance for Progress; (3) a program of technical assistance that stems historically from Point IV and that aims at helping people develop primarily through education and training broadly conceived; (4) a program that stems historically from the Development Loan Fund and that aims to help economic development by contributing to relieve those balance of payment deficits of less developed countries that result from imports needed for industrial growth; and (5) a Food for Peace Program that supports the other four programs and achieves additional humanitarian goals.

In addition to these five programs of its own, the United States makes contributions to the foreign aid programs of various international organizations.

The immense scope of present programs and their backgrounds and the desirability of achieving maximum useful-

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ness before congressional decision upon the administration's current request for funds made it natural for the Committee to focus its attention upon appropriations under the Foreign Assistance Act and upon the Agency for International Development which administers the greater part of those funds. Accordingly, the Committee, as the report points out (p. 1), did not include within its consideration the lending activity of the Export-Import Bank which constitutes a very significant part of the total U.S. resources under the Alliance for Progress.

Further, it limited its present review of the $1.5 billion surplus food and fiber programs to noting the usefulness of the Food for Peace Program, to the recommendation that loans to private enterprise of local currency from such food and fiber sales be expanded and to the admonition that food for work programs should not be so extensive as to enable "foreign governments to use our surplus food as full 'wages' for work performed."

Even within these limitations, the report covers a remarkably wide range of subjects, as is clear from even the most compact and summary description of its six parts.

(1) *U.S. Foreign Aid Since World War II* (pp. 1–2). This part covers a brief review of questions and criticisms and a survey of recent progress and states the Committee's approval of the Act for International Development of 1961 and of the "steps forward" that have been taken under it.

(2) *Present Status and Future Guidelines* (pp. 3–7). This part makes two principal points: (a) that foreign aid is of great value to the nation's security; and (b) that "even with due consideration for improvements, however, much remains to be accomplished" (p. 3) in the field of foreign aid.

(3) *Findings* (pp. 7–19). This part, which is the longest and contains the most specific recommendations, sets down the majority's conclusions on fourteen different important aspects of U.S. assistance programs.

(4) *Future U.S. Assistance Programs* (pp. 19–21). This part, while recognizing the continued need for military assistance programs "for some years to come," advises that "reductions are in order in present military and economic assistance programs" and, apparently, that "these reductions be phased over the next three years."

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(5) *Conclusion* (pp. 21–22). The conclusion emphasizes the value of properly conceived and executed foreign aid, states that there would be a need for development assistance and a U.S. interest in providing it even if all political differences with the communists were immediately resolved, and pays well-merited tribute to David E. Bell, the expert and experienced Administrator of AID.

(6) *Dissenting Statement* (pp. 22–25). The dissenting statement of Mr. George Meany opposes reductions in foreign aid and urges more extensive and broadly based programs "designed to promote economic and social well-being for entire populations of developing countries" through stressing and supporting the development of characteristic free world social institutions, including free labor organizations.

Clearly, the most important conclusion of the Committee is found in its repeated statement that properly conceived and executed foreign aid programs are in the national interest and contribute to the national security (pp. 4, 5, 19, and 22). The second most important conclusion of the majority is their recommendation "to decrease or abolish aid in a number of countries." In this regard the majority said (p. 20):

> We hesitate to translate our recommendations into precise dollar terms. This would require in addition to our current examination, detailed review of programs now under consideration and judgments on the firmness of understandings arising from past negotiations with foreign governments. We have stated program criteria which affect the number of countries receiving aid and the nature of that assistance. AID informs us that if our criteria were now in effect, present programs would be reduced by approximately $500 million, and there would be additional reductions in the following years as some of these programs were phased further down or out. We recognize the necessity of fulfilling present commitments which in some cases will delay the point when these criteria can be in full application and the existence of other commitments which could require increased funds in the future.

The Committee does not attempt to appraise in any detail the results of United States foreign aid programs during the past sixteen years and could not of course be expected to

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do so within the compass of a general report. Its conclusion that foreign aid is valuable to our national security presumably stems from a judgment that the marked change between the world situation described above that existed immediately after the end of World War II and the much improved situation that prevails today is attributable at least in significant part to United States foreign aid programs.

The terms of reference of the Committee's first report did not require its advice upon the organization of foreign aid agencies or the administrative as distinguished from the policy aspects of foreign aid programs. Presumably the Committee may in a subsequent report deal with the vexing and important problems of administration that have long beset foreign aid. In that event, it will be fortunate that each of its members has had extensive experience and hence is familiar with the truism perpetuated in Portia's platitude that:

> If to do were as easy as to know what were good to do, chapels had been churches, and poor men's cottages princes' palaces.

GEORGE MEANY

President, AFL-CIO

American labor takes pride in having supported the mutual defense and economic assistance programs from their very beginnings. We have participated actively in many of these programs—from the Marshall Plan to the Alliance for Progress. In addition, we have supplemented our government's efforts with our own aid projects: helping to re-establish Europe's free trade unions; encouraging and assisting the development of the trade unions of colonial countries in their struggle for national independence; aiding the workers of the new nations in Asia, Africa, and in Latin America to build strong, free, and democratic labor organizations; training manpower; financing trade union schools and colleges; giving technical assistance, trade union know-how; and furnishing office equipment, jeeps, and so forth.

In these undertakings, for which the AFL-CIO spends at present twenty-three per cent of its yearly income, American labor is motivated by international labor solidarity and the

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realization that free trade unions are indispensable to every democratic society. Experience has taught us that trade unions are the first target of the communists' drive to conquer and sovietize the world and that should the trade unions overseas lose their freedom, the freedom of the American labor movement would soon be menaced.

Though American labor has been a staunch supporter of U.S. foreign aid programs, it has never considered them above and beyond criticism. We have, over the years, submitted to our government suggestions for eliminating their weaknesses and increasing their efficiency. In this spirit, we welcomed the creation, in December 1962, of The Committee to Strengthen the Security of the Free World. American labor, and I personally, felt honored when President Kennedy appointed me a member of this Committee, whose chairman was retired General Lucius D. Clay. The first task set for this Committee by President Kennedy was to examine the U.S. military assistance programs (MAP) and economic aid programs as administered by the Agency for International Development (AID) in order "to determine whether their scope and distribution was contributing to the optimum security of the United States and the economic and political stability in the free world."

Let me reiterate what I stated in my opinion dissenting from the Clay Committee report: The economic aid and military assistance programs constitute "insurance against possible vast military expenditures and sacrifices of American lives." The extensive financial support by the American people of foreign aid activities conducted by private voluntary agencies is proof of their willingness to pay the "cost of this insurance."

The AFL-CIO has always insisted that the trade unions have a major role to play in the execution of foreign aid programs. In many developing countries in Africa, one of the greatest threats to political stability—and without political stability no sound economy can be built—is the establishment of authoritarian one-man governments. The best protection against this trend is the rule of law (guaranteed political freedoms and independence of the judiciary) as well as democratic institutions. Among the latter, free trade

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unions are of foremost importance. In a number of underdeveloped countries the labor movement is the only existing mass organization. Its members are relatively well-trained politically, since the trade unions played a dominant role in the struggle for independence.

Trade unions are the best safeguards against exploitation of the workers by greedy private employers and an all-powerful employer state. They also prevent potential dictators from using the workers for their own demagogic purposes. They are a bulwark against an imitation of the Soviet pattern, that is, abolition of free collective bargaining, establishment of harsh work rules, and introduction of forced labor. For all these reasons, free trade unions have a difficult time in many underdeveloped countries. They face severe restrictions of their activities and rights, especially the right to strike.

Trade unions are interested in an effective and just implementation of foreign aid because only then can they be sure that the people, rather than the ruling clique, tribal chiefs, or caste, benefit from these funds. We should, therefore, insist that trade unions in the underdeveloped countries have a voice in the planning and execution of aid programs.

Moreover, among the reforms which we demand the governments of the recipient countries should provide is the establishment of free collective bargaining, social legislation, and working conditions in compliance with ILO standards.

Let me point out that while at the beginning of the Marshall Plan, foreign aid accounted for two per cent of our national product, it is today only 0.7 per cent; in 1949 it amounted to 11.5 per cent of the federal budget, today only to four per cent. According to David Bell, administrator of AID, of the forty-one countries receiving U.S. aid since World War II, more than half are now able to stand on their own feet economically. Sixty per cent of the economic aid requests are for loans and forty per cent for grants. Nor are the aid funds entirely a financial burden for the American people, since about eighty per cent of the funds are spent in the United States and help create from 600,000 to 750,000 jobs in this country in manufacturing and shipping goods to recipient nations. U.S. trade with countries which

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have received U.S. assistance tends to increase, as experience with western Europe and Japan proves.

For some time, the administration and Congress, backed by public opinion, have been demanding greater participation by other nations of the free world, especially western Europe, in foreign aid. Although European countries have recently expanded their assistance operations considerably, half of all foreign aid of the free world—which amounted to $9 billion in 1962—is still being given by the United States. Of course, in comparing figures, one must not forget that since their individual income is lower, European nations cannot be expected to match American aid. On the other hand, U. S. defense expenditures, which benefit the entire free world, are much higher. For instance, there are as many men under arms in the U.S. as there are in all NATO countries combined. The U.S. spends $277 a year on defense for each American. This compares with $52 *per capita* in the other NATO nations—a ratio of five to eleven.

The main criticism that can be levelled against European aid to date is the fact that it is given mainly on commercial ("hard") terms, that is, in the form of short-term, high-interest private loans. As the report of the Clay Committee correctly pointed out, this saddles the underdeveloped countries with too heavy a debt burden. The administration should make a major effort to convince the European countries, especially the German Federal Republic, of the necessity to give more grants or long-term, low-interest, so-called "soft" loans.

As far as European complaints regarding aid programs are concerned, they are directed against the strings attached to American assistance, namely, the provision that they have to be spent in the United States. This requirement is necessitated by America's difficult balance of payments situation. To the extent that Europe will assume a larger share of the West's foreign aid and defense load, it may be possible for our country to ease up on this condition.

The recent meeting of the twelve-nation Development Assistance Committee (DAC) of the Organization for Economic Cooperation and Development (OECD) was not able to solve the problems concerning Western aid. In view of

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their importance and urgency, a Western summit conference on foreign assistance may be in order. Such a conference should set up a multi-lateral aid system, adjust the loan terms of the different countries, and establish a regular exchange of information on all kinds of assistance by donor nations. Such a common approach would go far not only toward increasing the volume of aid, but also to equalize its terms, distribute its burdens more fairly, assure better distribution and control of its use, prevent pressure tactics by recipients, lend increased weight to demands for self-help and reform measures in the underdeveloped countries, and avoid duplication and waste.

The question of aid cannot always be determined on "economic grounds." It may be necessary to aid a country which, in the cold eyes of a business man, would be a poor investment risk. In such a case, we should suggest to the recipient country that it request technical assistance in carrying out administrative, financial, and other needed reforms. This is what Greece did when she first began receiving American aid. This assistance has contributed decisively to the economic and political recovery of Greece and is one of the reasons why that country is now rapidly approaching the time when it can stand on its own feet and will no longer require U.S. help.

In general, we must, however, warn against comparing the Marshall Plan with current aid programs. In Europe, the task was to help democratic countries which had established political institutions, a sound economic system, trained manpower, and an old culture to overcome the ravages of war, and, in the case of Italy and Germany, the internal effects of totalitarian rule. But in the economically underdeveloped countries, the foundations of a democratic society, a healthy economy, and a modern education system have first to be built. This will require much time and patience. Yet, there is no reason to doubt that the final results will be as great and gratifying as they have been in postwar Europe.

From the beginning of the aid program it has been the policy of the United States not to impose its political or economic system on the recipient countries, but to leave it to the people of these countries to decide their own form of government and economic and social order. Thus, Great Britain

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was one of the major beneficiaries of the Marshall Plan, although its Labor government carried out a vast nationalization program. Simultaneously, France, another big recipient of U.S. funds, also expanded public ownership and embarked upon establishing a series of economic plans. In this light, I took strong exception to a cardinal thesis in the Clay Committee's report, namely, that our aid program should insist on free enterprise in the recipient countries and that their needs could be served only by private capital investment.

American labor has always wholeheartedly supported our free enterprise system. Under this system our country has obtained the highest living standard in the world. Moreover, the labor movement has found that it can best protect the interests of the workers in a free economy as it exists in the United States.

However, our economic system is possible only within the larger framework of a democratic society where we have developed strong countervailing forces to private capitalism. These forces include free trade unions and free collective bargaining; farmer and consumer organizations; a Congress that acts as a watchdog in cases of abuse of economic power; antitrust laws; social legislation; regulatory agencies, and so forth. As a result, the *laissez-faire* economy of the nineteenth century has been changed into the "mixed economy" prevailing today in the United States, as in most other industrially advanced countries in the free world.

These countervailing forces, however, do not exist in the majority of underdeveloped countries. Not only political democracy, but the national state as such is still in its infancy. Labor is numerically weak and farmers or consumer organizations are almost non-existent. Parliament is controlled by a strong executive. The one-party system is the rule in many instances. Social legislation, if there is any, is paid only lip service.

The issue is not private versus public enterprise. In most economically underdeveloped countries both are needed in order to assure a speedy establishment of a sound and prosperous economy.

It is certainly necessary to expose "doctrinaire biases against responsible private capitalist enterprise." But it is no less

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necessary to combat "doctrinaire biases" against responsible public enterprise and planning.

It is a fact that current basic needs of the underdeveloped countries can, to a large extent, not be met by private capital. These needs include construction of roads, schools, and hospitals; vocational training; irrigation; and so on. Since in view of the prevailing poverty, domestic savings are insufficient, the required funds to carry out such projects must be provided by sources from abroad. Obviously, public aid (grants, long-term low-interest loans) rather than foreign private capital are likely to be the main source.

In addition, the situation is today not propitious for private capital in many of these countries, as the flight of U.S. investments from Latin America shows. Of course, private capital has an important role to play in the development of the new countries. But, today, public foreign aid is needed, first of all, to help create the economic and social conditions under which private investment can be most efficient and beneficial. Any other position on this issue would strengthen the communists' anti-American propaganda in the underdeveloped countries. It might spell the doom of the Alliance for Progress which is largely based upon governmental loans and grants.

In March 1961, President Kennedy proclaimed the sixties as the "Decade of Development." The American people and Congress hailed the president's plan which was, a short time later, endorsed by the General Assembly in the United Nations. Any reduction in foreign aid funds would jeopardize the realization of this lofty ideal.

I will never cease being proud of my country for what it has done. No country in human history can match the record achieved by the United States since 1945 in giving up so much of its substance to try to preserve freedom and help people in the rest of the world.

OTTO E. PASSMAN

Member of Congress, Fifth District of Louisiana

When President Kennedy, late in 1962, announced the appointment of a committee headed by General Lucius Clay to study our foreign aid program and submit recommendations

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for future policy and actions, my reaction was one of mild interest mixed with considerable skepticism. This attitude was the result of my disillusionment based on past experience with similar committees. The work of these committees, in most cases, had been of a superficial nature, and their function, on the whole, had obviously been intended to advocate the point of view and strengthen the hand of the Executive with Congress and the public. Therefore, I looked upon the Clay Committee as one which was cast for the same role, to "bail-out" foreign aid.

But, since the Clay report was released by the State Department in March, I have studied its comments carefully, and—although I do not think that any committee within the span of a few months can adequately, and in detail, investigate and evaluate such a vast and complex matter as our world-wide program of foreign aid—I have been both surprised and pleased at the apparent objectivity with which the Committee undertook its assignment, so far as it went. Many of the Clay Committee assessments and conclusions can, and I sincerely hope will, serve effectively in furthering the effort in Congress to curb our indiscriminate foreign aid to a substantial extent.

It has been clearly evident for a long time, however, that we have been "indeed attempting too much for too many," but it is well that the Clay Committee saw fit to give emphasis to this point. It would have been well, too, if the Committee could have gone into a more thorough study and, then, reported in greater detail on how ill-conceived, badly executed, unrealistic, wasteful, and expensive much, if not most, of our foreign aid really is. In that event, its recommendation for cutting the program's funds would doubtless have been increased considerably beyond the $500 million figure which was announced—assuming, of course, that realistic guidelines continued to prevail in the process of decision-making.

Nevertheless, within the limitations imposed by the circumstances, the Clay Committee did note that a good deal of the public and congressional complaints about and criticisms of our aid program and problems were well justified. This is all to the good, even though it is but limited ac-

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knowledgment of conditions which I, as chairman of the Subcommittee on Foreign Operations of the House Committee on Appropriations, and the majority of my Committee colleagues, who are continuously studying the program, have been pointing out for years.

Since the Clay Committee did not go into these particular weaknesses and faults of our foreign aid program, I think that in the interest of a factual presentation, some of them should be enumerated here. They include:

—over-extending ourselves in practically all categories of aid;
—programs which are too diffuse for specific results;
—mismanagement of many projects;
—ineffective bureaucracy in AID headquarters and in the field;
—ignorance on the part of many planners in AID;
—little effective liaison between main office in Washington, D. C., and field offices in foreign lands;
—too many projects started and not brought to fruition;
—too many sloppily planned projects;
—projects which are not in the interest of the people to whom aid was offered;
—too little consideration for our own national interest;
—completely inadequate and ineffective end-use justification;
—too much kowtowing to certain political cliques in some countries;
—graft and greed of some politicians in recipient areas, getting rich at the expense of the masses by means of our aid;
—speculation in our aid goods;
—projects initiated far above the ability to repay;
—aid solely in response to so-called communist threats;
—aid in response to pleas from flamboyant politicians;
—aid for projects in which our prestige has suffered;
—aid solely to commit funds unexpended at fiscal year end;
—aid disbursed by subterfuges, moved from program to program and from the President's emergency fund; and
—non-cooperation on the part of recipients.

The records of our Subcommittee are full of documenta-

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tion for every one of these criticisms, and for many others as well. So, my principal regret is that the Clay Committee did not delve far enough into our foreign aid follies—because it could not go into the program more extensively or, perhaps, for other reasons. However, while covering only a relatively small portion of what is being done and what actually ought to be done, the report is certainly correct in questioning the visible results of our aid.

I concur with General Clay and his Committee that "reductions are in order" in present military and economic assistance programs; that Africa is an area where western European countries "should logically bear most of the . . . aid burden"; that it should be made unmistakably clear that aid recipients must be "serious about self-help"; that aid planning "should be marked by realism"; that aid should not be given to foreign governments for "projects establishing government-owned enterprises which compete with private endeavors"; that careful examination should be made of the argument that aid should be given for "political" reasons; that there are "serious doubts" as to the wisdom of guaranties on our part against commercial risks (guaranties which should be given, instead, by the recipient countries); that AID employees "whose performance is marginal or whose technical skills are not required" should be separated from the program; that aid should not be given to Indonesia; and that, over all, "a higher quality and reduced quantity of our diffuse aid effort . . . could accomplish more."

But, I part company with the Clay Committee in some of its other conclusions, and most especially do I reject General Clay's personal contention that $4 billion is the "rock-bottom" sum that should be made available for our foreign aid in fiscal 1964. The evidence simply does not support such a claim as that, any more than it has supported similar "rock-bottom" claims advanced by the Executive over the past eight years. During that period, in which it has been my privilege and responsibility to serve as chairman of the Foreign Operations Appropriations Subcommittee, the Congress appropriated an aggregate of $6,582,937,000 less than the budget estimates for foreign aid—the reductions ranging in amount from $558,650,000 for fiscal 1961 to $1,204,182,000 for fiscal 1960. Even so, the funds made available were,

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in every year, far in excess of the needs. This was so despite the many grandiose policies and actions which have characterized the program and despite administration assertions that any substantial cuts at all would seriously damage the program. On this score, the facts of the matter are irrefutable.

We are now into, and accelerating, the third major phase of our foreign aid since the end of World War II, assistance to a large number of so-called underdeveloped countries. Yet, in large measure, we are applying in these cases the same economic and military criteria which we used in western Europe. This basis of action, in my opinion, is completely wrong. A new set of formulae must be devised for this kind of program, if we are to proceed with it, and the elements of common sense and practicality must be given priority, both in concept and execution. This rules out, so far as I am concerned, such projects as the building of artificial harbors, roads that lead nowhere, giant hydroelectric schemes that cannot possibly be paid for in the forseeable future, and those other large projects which are dear to the hearts of some of the recipients and the super-planners in AID.

With regard to many of the other countries, I heartily concur with the Clay report that they do not now really need our assistance and, therefore, we should cut off our aid to them. In this category, the Clay Committee specifically mentioned only four nations, but I think I would have no difficulty in adding to that list a good many others. Those countries should shoulder their own burdens, and there is no way which, in clear conscience, our continued expenditures for their benefit can be justified. And certainly, if there is going to be foreign aid, the other industrialized nations—France, England, and others—should, as the Clay report suggests, help their own former colonial areas. After all, they, not the United States, got most of the benefits from those areas.

The Clay Committee recommendation that the United States should by every means possible get out of governmental aid and make extensive efforts to interest private investors to go into foreign areas is in the best American tradition. Private business know-how and initiative can accomplish much more than aid on a government-to-govern-

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ment basis; and if there are foreign socialistic governments who do not wish to allow our private capital to come in, it is my judgment that we should let them alone entirely.

While the Clay report did not go into the matter of Russia's so-called "aid" to other nations, I think it is well for us to note, in the context of this discussion, that the Soviet dealings have involved "banker" type loans and profitable barter deals. The Soviets, invariably expecting repayment in usable goods and hard cash, assess the capabilities of the various areas according to their ability to pay.

Are our statesmen less able to understand these people and countries than are the communist leaders?

PAUL G. HOFFMAN
Managing Director,
United Nations Special Fund

Over the past few years, a considerable number of serious private and official studies—prepared in many parts of the world—have reviewed in varying detail both the principles and the operations of "foreign aid" programs. To my knowledge, not one of these reports has failed to stress the great value of properly conceived and administered development assistance. A good many of the studies also express affirmations similar to the Clay report's: "A foreign aid program is one instrument among many which we and other developed countries adequately can afford and vigorously must use. . . ."

The question, therefore, is not whether or not development assistance should be provided, but rather for what purposes, to whom, through what channels, and in what amounts.

These issues, too, have been treated by certain of the reports, some of them with excellent clarity and depth. With such findings in mind, and against a background of many years' experience in governmental, foundation, and multilateral assistance work, I should like to examine those four issues. I shall do so, not from the point of view of any particular development assistance program, but in the hope of identifying certain principles which might be relevant to all such programs.

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I

One of the most pressing and immediate tasks confronting us in the wake of the current debate over development assistance is to clarify in our minds exactly what assistance can do and, equally important, what it cannot do. Failure to achieve a clear understanding of the true purposes and of the inherent limitations of "aid" has produced unfortunate results. Not only has it led to the waste of hundreds of millions of dollars, but it has also bred disappointment with the whole concept of "aid" itself.

From the start, development assistance programs were saddled with a number of pernicious misconceptions. One of the most tenacious of these was the idea that "aid" could be manipulated to win true friends and influence people for any significant period of time. The origins of this fallacy are easily understood. They lie in the peculiar historical circumstances in which the desperate social and economic needs of the emerging countries forced themselves upon the attention of the world at a time when its two "super-powers" were locked in a titanic struggle. The temptation to regard economic "aid" as an instrument in this conflict and to justify its necessity in terms of cold war imperatives proved initially overwhelming.

Now, after more than fifteen years of experience with development assistance programs, we have become more sophisticated and less "panicky" in our approach. The unpredictable distortions implicit in any attempt to distribute economic assistance according to political or strategic objectives have been amply demonstrated. In the same way, we have also learned the self-defeating character—over the long run—of any assistance dispensed primarily to gain immediate commercial advantages for the donor country.

Close observation of, and participation in, assistance programs for over a decade and a half have completely convinced me that they should have one long-range purpose—development. That is to say, their exclusive aim should be to help the low-income countries to stand, economically speaking, on their own feet. If this is accomplished, and it can be accomplished only by concentrating on that single goal, the collateral benefits will be significant. These coun-

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tries, with their national integrity uncompromised through development assistance, stand a better chance to become stable, prosperous, and responsible participants in the international community and in an expanding world economy.

In 1963, the vision of prosperity in the developing countries is far from utopian. Every day at the United Nations brings further evidence that these countries *have* the latent resources—human and physical—to provide their people with decent standards of living. The work of the UN Special Fund, for example, has shown that the necessary ingredients are close at hand. Surveys carried out by the Fund and its cooperating agencies in the low-income countries have revealed many rich but unutilized natural resources and industrial potentialities. They have also helped mobilize capital for their development. Applied research and extension services supported by the Special Fund have raised output and productivity and improved the uses of local materials. Finally, the advanced education and technical training programs have proven once again the primacy of the most important and neglected factor in a country's development, its people.

Happily, one indispensable catalyst needed to stimulate the development of these resources and to trigger a dramatic chain of social and economic advance is already present. It is the deep and dynamic determination of people in the low-income countries to escape from the degrading bondage of poverty and its ugly companions.

The other indispensable spark must be supplied by the industrialized countries. It must reflect *their* deep and dynamic determination to provide for the emerging countries an adequate supply of capital, experts, and equipment, and to bring on stage the incalculable forces of modern science and technology which are waiting in the wings.

There is, of course, a whole arsenal of reasons why leaders and people in the industrialized countries must bend every effort to help the low-income countries which are conscientiously striving to develop their human and physical resources.

Most of these reasons can be reduced, ultimately, to the compelling fact that the nations on our shrinking planet have grown daily more interdependent. The force of this argument can be demonstrated with equal facility not only

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on the moral plane but in the practical spheres of politics and economics. Indeed, the recognition is at last growing that the world cannot hope to achieve even a semblance of stability as long as two-thirds of its inhabitants are in full, active revolt against their grossly inadequate standards of living. Thus, for example, the highly charged repercussions of such events as famine in the Congo are felt in chancelleries as well as in private homes around the world.

This leads me to insist that, because of the mutual advantages ensuing to all nations from successful development assistance programs, such programs should not be spoken of as "foreign aid." They are not "foreign," because every nation's own vital interests are involved. They are not "aid," but rather investments in peace, freedom, and the future prosperity of each and every country.

II

The needs for economic assistance are so huge and widespread that careful selectivity in its distribution is required; how, then, should one determine that distribution?

Development assistance should be provided only to those who most urgently require it, and only when and where it can be *effectively* used for development. These criteria, which sound so simple, are both more essential and more complicated than they appear at first sight.

Should assistance be concentrated on those countries already approaching a breakthrough to self-sustaining economic growth? A little bit of strategically placed assistance there goes a long way. Put another way: should development assistance be denied the poorer, perhaps smaller countries because they are so far behind that they cannot absorb the same kinds of help which proved effective elsewhere? Should assistance aim at calming social unrest, or at preventing it, or both?

Finally, what should happen when a country is unwilling to remove obstacles to its progress which are of its own making? . . . fiscal irresponsibility resulting in runaway inflation; feudal land tenure systems; inequitable taxation; flights of domestic capital abroad; exaggerated protections for inefficient business and labor; a cumbersome and excessively costly civil service; grave political, social, and economic inequality.

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This is not the place for a technical analysis of these matters. It is, however, a place to stress the grave dangers of either complacency or superficiality. We must face the complex problems which are a part of the development process, and we must all show some patience, but not too much. Other people cannot be pushed around, but we can try to reason with governments and people and to persuade them to act on the basis of their real self-interest. If this is unavailing, attention and assistance should, perhaps, be directed elsewhere for the time being. Here, as in politics, we are concerned with what is possible and with the art of making that which is needed possible.

Certainly, there will never be a neat formula for determining precisely to whom development assistance should be supplied. Some flexibility will be required in a changing world; that is why the administrators of assistance must be adaptable and have both the latitude and the means to exercise their best judgment.

Different programs inevitably require somewhat different principles; lending is another business than that of making development grants; providing budget support is quite another affair than lending. In this context, certain of the criteria used in determining the recipients of the United Nations Special Fund assistance might not be without interest.

The United Nations Special Fund helps only countries prepared to help themselves. It shares rather than bears the costs. It insists that any project which it assists shall fall within the framework of a consistent economic policy and result in sustained follow-up action. The Fund's assistance to training and research institutes is limited to support for no longer than five or six years; it is phased out in each succeeding year as counterpart personnel become increasingly capable of taking over complete responsibility themselves. Thus it is hoped to leave behind a permanent, viable institution capable of stimulating significant increases in strategic areas of production and productivity.

In general, development assistance should be given to the needy in forms they can use. It should be provided on terms which do not negate the intended purpose of promoting their development by placing excessive burdens on them.

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Finally it should be supplied in quantities no larger than they can absorb. The criteria should be economic and not those of short-range political, military, or strategic advantage.

III

In addition to the question of the legitimate purposes of development assistance, and of the factors which should determine its destination, there is also the important matter of the best channel for providing effective assistance to developing countries. The respective advantages of the different channels for administering genuine development assistance will vary from one project to another and from one recipient country to another. In all cases the best channel is that which delivers the most development per dollar, pound, franc, ruble, or mark. There is no activity of which I have knowledge in which the application of this sound, business-like practice is more urgently required than in economic assistance programs.

In certain situations the most effective transfers of knowledge and capital will be private—that is, through business and trade unions or through foundations, universities, and religious groups. But in other circumstances resort must be made to governmental and intergovernmental agencies. In these instances, governments should weigh carefully certain major advantages—political, technical, and economic—which repose in multilateral organizations, particularly in the United Nations and its related agencies.

Mr. Eugene Black, who so ably headed the World Bank for many years, put the case this way. First and foremost, he asserted, "One obvious and enormous virtue of the international approach is that it can be *objective*." From this initial premise, he drew the following conclusions:

> Because we have no axe to grind, we can take on the jobs which are necessary, but unexciting. Because we have no political or commercial motives that might distort our efforts, the underdeveloped countries can rely on us to help them find the very best experts, the cheapest supplies, the projects which will best meet the needs of their countries. . . . This objectivity also means that the help offered by an international agency is continuously available. Its support is

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> independent of the Cold War or any other kind of international tension. . . . Multilateral aid can also have teeth.

By this he meant that United Nations agencies, among them the World Bank, can be tough without being accused of having other motives than that of speeding development with the most economical use of international funds.

In addition to objectivity, Mr. Black adduced several other telling arguments in favor of multilateral economic assistance. "Almost by definition," he stated, "it must be able to draw on larger resources than are available to any bilateral grouping." His final argument is perhaps the most powerful of all:

> International aid can be more acceptable to the receiving country than help given on a bilateral basis. . . . Aid by one country to another only too often has a patron-and-supplicant flavor which is wounding to a touchy nation's self-respect. . . . Aid given on an international basis can have, in contrast, an air of partnership.

The work of the UN Special Fund illustrates well this principle of partnership. One hundred and four countries contribute cash to the central resources of the Special Fund. Broad guide lines for its policies are determined by the UN General Assembly. The Fund's Governing Council is composed of representatives of the governments of nine less-developed countries and of nine industrialized countries. It has approved to date 327 high priority projects for assistance to 120 developing countries and territories. Most of these projects are well under way, promoting investment—local and external, public and private—and creating and strengthening essential institutions, improving development planning, and raising the skills and incomes of people in the developing countries.

To implement this $672 million program, the "recipient" governments are providing goods, services, and cash worth $389 million. The Special Fund is contributing the remaining $283 million for international experts, fellowships, equipment, and services under contract. (The United States, the largest contributor, has committed seventeen per cent of the cost, the other industrialized countries twenty-five per cent, and the developing countries no less than fifty-eight per cent.)

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The nearly one thousand international experts serving on these projects were recruited from some sixty countries. Over half of those countries were themselves receiving Special Fund assistance. Such experience justifies, I believe, Mr. Black's support for multilateral assistance on the grounds that "it *can be* more efficient to pool the resources and the resourcefulness of many nations rather than each nation acting separately."

This leads me to stress two additional facts. Channeling development assistance through the United Nations can also help to bring order out of existing confusion and waste. In one African country I recently visited there were more than fifty inter-governmental, governmental, and private agencies (excluding business firms) offering all kinds of "aid." These ranged from fellowships, often in very low priority areas, to public credit for goods which the low-income country neither really needed nor could afford.

Secondly, I would stress again the utter futility of transforming the "cold war" into an "economic-aid war" between any two countries, or of dividing the world into "givers' clubs" and "receivers' clubs." The results are certain to be "aid" for the wrong projects, "aid" for projects in the wrong countries, and "aid" for the wrong people.

In this critical business of speeding economic development, there is no room for any war except that against want, injustice, and inertia in development. Instead we must turn, together, to full cooperation—among North, South, East, and West—to achieve the technical, intellectual, and spiritual progress and the expanding world economy upon which the well-being and possibly the survival of all of us ultimately depend.

IV

It is true that the industrialized countries have expended considerable sums on development assistance. But there are several factors which make the actual size of their country's effort much smaller than many persons believe.

In the first place, statistics on assistance are often misleading. In fact, perhaps no statistics are more unreliable. One reason for this arises from a failure to differentiate between development assistance on the one hand, and export

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promotion, short-term commercial credits, and relief, on the other. Each of these may have its own excellent justification. However, they do not usually serve the primordial function of development assistance, which is to expand a country's capacity to produce *essential* goods and services.

Also giving an exaggerated impression of the development assistance effort is the frequent failure to make a clear distinction between such assistance and the military aid and defense support provided by several industrialized countries.

In estimating the quantity of aid required, we also have to consider two factors which affect the net results of assistance. The first is the current population explosion which compels countries to run just to stand still. World population in the period 1950–1960 soared by half a billion, an increase in one decade equal to the earth's total population in the mid-seventeenth century. This fantastic rate of growth is accelerating. Still more significant, the growth is largely concentrated in developing areas of the globe where standards of living, including health, education, and housing, are already completely inadequate and where opportunities for gainful employment are already dangerously limited. Living standards can only improve to the extent that national income increases faster than population growth and that its benefits are shared by all the population.

Another serious factor slowing the pace of economic growth in many low-income countries is falling prices for their principal exports. Since the cost of the urgently needed goods and services which they must import continues to rise, their development plans are necessarily affected.

Between the mid-1950's and 1962, the terms of trade of the low-income countries deteriorated by over ten per cent. As their total exports amount to some $25 billion a year, this meant an annual loss of roughly $2.5 billion. Using a reasonable definition of development assistance, that loss wiped out approximately one half the amount of such assistance they were receiving.

Since trade and development assistance are alternatives, the need for liberal trade policies is all the more vital if our temporary development assistance is to be replaced by trade.

Until that welcome substitution occurs, development assistance is essential. There are four types of expenditure

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which should properly be classified as development assistance. One is technical and pre-investment assistance such as that extended by the United Nations Special Fund. This is generally in the form of grants. Another category is the use of food surpluses *for development*, also, in effect, provided as grants. Then there are "sound" loans and investments, such as those provided by private business or through the World Bank. Finally, there are long-term development credits, like those of the International Development Association.

The best estimate of the amount of pre-investment supplied by the industrialized countries in 1962 is $600 million. Something between $4 and $5 billion was provided through private and bankable loans. Not over $1 billion was supplied of the type of loans most needed: long-term, long-interest loans with lengthy periods before repayment is to begin—for infrastructure projects, such as schools, transport, hospitals, and the like.

As to what amount should be given, the answer can be stated clearly: all that can be *effectively* used. That would probably not exceed $10 billion of assistance a year as here defined. The amount can be afforded, and particularly easily if all industrialized nations join in sharing this important investment. The additional sum required over present levels of assistance would be only a fraction of the annual *increase* in the national incomes of those nations. And who says that providing $10 billion of essential development assistance is beyond the capabilities of nations that are currently spending $120 billion a year for armaments and armies?

What can we expect from an annual expenditure of $10 billion in assistance over the rest of this, the United Nations Development Decade? It is not too much to hope that twenty of the countries now receiving United Nations' assistance can attain living standards of decency and dignity within the 1960's. This should encourage more rapid progress in the other low-income countries during the rest of our century, by the end of which we could, if we really set ourselves to the task, abolish poverty, illiteracy, and chronic ill-health from the face of the earth.

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CUSTOM, CASE LAW, AND MEDIEVAL "CONSTITUTIONALISM": A RE-EXAMINATION *

IMAGINE, for the moment, that the Christian God allowed the reincarnation of souls, or at least that He allowed those souls who were greatly attached to earthly life to haunt their old surroundings as men rather than as ghosts, and that Peter Abelard, the twelfth-century philosopher-theologian, came back to Mont Ste-Geneviève at the end of the Middle Ages. This time, however, let us assume he would be granted his passage back only on condition that he interest himself in something unimportant, like political theory. Without doubt, soon after he would arrive in the Latin Quarter a new *Sic et Non* would be sent off to the *stationarii* on the Rue St. Jacques. Opening the book at random, we might find a sample folio something like this:

Article 38	*That the Prince is above the law, et contra.*
Yes:	"The prince is free of the restraints of law." Ulpian, *Digest* I, 3, 31.
No:	"The king is not subject to man but to God and to law." Henry of Bracton.
Article 39	*That the Prince may create law by his own will, et contra.*
Yes:	"What pleases the prince has the force of law." *Institutes* of Justinian, I, 2.
No:	"What touches all is to be approved by all." *Code* 5, 59, 5, 2.
Article 40	*That law is "found" but not "made," et contra.*
Yes:	"It belongs to the magistrates to judge according to the laws found by the counsellors and guarded by the Prince." Egidius Romanus.
No:	"The judgment to be given by you will be hereafter an authority in every *Quare non admisit* in England." A serjeant-at-law to a judge in Y. B. 32 Edw. I.

If Abelard showed up as a historian in 1963, rather than

* This paper was given as one of the Humanities Institute lectures at the University of Wisconsin in 1962. My thanks to the Institute for the time to work on the materials from which this paper emerged, and to Ewart Lewis for her comments on it.

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as a political theorist in 1363, he could add quotations from Coke and Blackstone, the Remonstrances of the Parlement of Paris, and the somewhat less passionate commentaries of C. H. McIlwain's *The Growth of Political Thought in the West,* and the Carlyles' *History of Medieval Political Theory,* but his questions would not have changed, nor the paradoxes that his *Sic et Non* presents: for all these phrases were the current coin of the Middle Ages and have been repeated constantly, first by pamphleteers and then by history textbook writers, ever since.

Historians like nothing better than a well-turned paradox, and I would be the last one to deny my colleagues this pleasure. Without this confrontation of Yes and No much of the recent work on the antiquities of coronation oaths, the origins of representation, and the history of the "rule of law" would lack much of its interest. But whenever we have a complex question that has been answered Yes or No, we may suspect that something has been left out in the process.

Professor McIlwain in his *High Court of Parliament,* in the *The Growth of Political Thought in the West,* and in *Constitutionalism: Ancient and Modern* argued that medieval writers rejected the "absolutist" answers to these questions, that they upheld the supremacy of law.[1] I do not think anyone will dispute his conclusion in its most general form. McIlwain, however, went on to name the law that was supreme, to describe how far the king was bound by this "law," and his views have been so widely accepted that I think I am justified in calling his conclusions the "common view" of the matter.[2]

1 *The High Court of Parliament* (New Haven, 1934), vii–viii, and Chap. II; *The Growth of Political Thought in the West* (New York, 1932), 184 ff.; *Constitutionalism: Ancient and Modern* (Ithaca, 1947), Chap. IV.

2 McIlwain's *High Court* first appeared in 1910. In 1919 Fritz Kern supported a similar thesis in his "Recht und Verfassung im Mittelalter" (translated by S. B. Chrimes in Kern, *Kingship and Law in the Middle Ages* [Oxford, 1939], 149–205). Other adoptions or adaptations of the basic view are G. H. Sabine, *A History of Political Theory* (New York, 1950), 200 ff., esp. 203, where this notion is associated with the favorite Romantic dream of a number of nineteenth-century German historians—the "folk-peace"—without any mention of J. Goebel's devastating criticism in *Felony and Misdemeanor* (New York, 1937), I, Chap. I; R. W. and A. J. Carlyle, *A History of Medieval Political Theory in the West* (London, 1936), III, 41 ff., 183–184; VI, 507, whose position, while not as extreme as McIlwain's (not insisting on the immutability of custom), still insists on the equation of law with custom "not prop-

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McIlwain and those who agree with his views—or follow them—have expounded them in numerous ways. In his earliest work on the subject, McIlwain put it this way:

> One of these characteristics of feudal assemblies was the absence of law-*making*. The law was declared rather than made. . . . The law which existed and was thus declared was a body of custom which in time grew to be looked upon as a law fundamental. Rules inconsistent with this fundamental law were void. . . .[3] Such customary laws as these, declared by inquest or by Council, hardly ever ostensibly altered, with no assignable beginning, must almost of necessity in process of time acquire a character of inviolability.[4]

In *The Growth of Political Thought in the West* he found the best proof of this theory in a text of the mid-thirteenth-century Norman *Summa de Legibus:*

> . . . [Its] general tenor is typical of *feudal* ideas. . . . It reflects a more archaic conception of law and is, on the whole, probably a truer index of legal ideas of the centuries preceding. The author . . . thinks of the enactments of the princes only as instruments for determining particular cases. . . . The term *lex* itself means procedure, it does not mean the substantive principles of law. Those principles can be found *only* in custom held from ancient times. . . . Many instances may be found in the twelfth century treatise on English law attributed to Glanvill in which *lex* is used in the same way to indicate *mere* procedure instead of the substantive principles of the law. . . . 'Law,' the only law in the highest sense, is something that none can 'make,' not even a king. He should approve it, and men may find, and preserve or maintain it, but it comes *solely* from ancient custom. These *consuetudines* . . . are maintained . . . by usage of the people, and the king . . . [makes] provisions to ensure their enforcement.[5]

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erly something consciously made." The spiritual leader of the resistance movement has been T. F. T. Plucknett, especially in his *Legislation of Edward I* (Oxford, 1949), 7 ff. McIlwain and the others are really trying to deduce from thirteenth-century documents the ideas of an earlier relatively silent (and therefore "dark") period. It is a constant source of amazement to see Bracton showing up in a chapter devoted to the "Early Middle Ages," an appearance that can only be justified by McIlwain's "paradox brilliantly sustained."

[3] *High Court,* vii–viii.

[4] *Ibid.,* 51–52.

[5] 187–8. The italics are my own.

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(The text of the *Summa*, by the way, does not contain the word *only*, or *solely*, but merely defines custom as ancient usage, states that *leges* are institutions by which particular cases are decided, and gives an example.) This "customary" or "feudal" notion of law was, according to this view, quite contrary to that of the Romanists and Canonists, and it is from the latter that the idea of legislation comes—as well as the idea of absolutism. The whole view was summarized by Professor George L. Haskins in 1955:

> Englishmen of the thirteenth century were heirs to Germanic ideas that conceived of law as custom, made up of the immemorial usages which had crystallized about particular ways of life in particular places and which had no assignable beginning. In this conception, law acquired a character of inviolability and was viewed as something permanent which, though it might require promulgation and definition, could be found but not made. This conception of law gave it a transcendental force; it was, in the words of Justice Holmes, 'a brooding omnipresence in the sky,' a kind of protective power which existed independently of any human agency, and which not only men but kings were thought powerless to change. Hence arose the belief . . . that the law was above the king.[6]

If this view is true, then one very common phenomenon of the Middle Ages presents a major historical problem of explanation: law-making by the courts. The Parlement of Paris, the highest French royal court in the Middle Ages, was largely the originator of its own legal doctrines; the law it enforced was case law; precedent was a recognized source of law.[7] While there has been much debate whether a "rule of precedent" was observed by medieval English courts, a debate unfortunately falsified by some of the debaters' very restricted notion of what the "rule of precedent" must mean,[8]

[6] George L. Haskins, "Executive Justice and the Rule of Law," *Speculum*, XXX (1955), 531–532.

[7] See A. Sergène, "Le précédent judiciaire au Moyen-Age," *Revue historique de droit français et étranger*, 4me sér. XXXIX (1961), 224–254, 359–370, and my own "La justice et le pouvoir royal à la fin du Moyen-Age français" in the same journal, 4me sér. XL (1962), 373–394.

[8] P. H. Winfield, *The Chief Sources of English Legal History* (Cambridge, Mass., 1925), 149 ff.; T. E. Lewis, "The History of Judicial Precedent," *Law Quarterly Review*, XXXXVI (1930), 207–224, 341–360; W. S. Holdsworth, "Case Law," *L.Q.R.*, L (1934), 180 ff.; C. K. Allen, *Law in the Making* (Ox-

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no one seriously thinks of questioning the conclusion that the Common Law of medieval England was largely the product of judicial decision.

Considered by itself, there is nothing very startling about this judicial law-making.[9] Yet it would seem to present historians of government and political theory with a serious difficulty, if they troubled to take it into account (which they do not). For during the last half-century the views of McIlwain have dominated the field. Historians of political theory have so emphasized the role of custom in "medieval constitutionalism" that the appearance of judges creating their own rules of substantive law (if it were to be mentioned) would assume the proportions of a momentous revolution, in some ways more difficult to explain than the beginnings of legislation—which is enough of a problem. Rather than explaining, or explaining away, this disruptive phenomenon of case law, I think it is time to re-examine the view that makes it a problem.

Aside from a few adjectives and adverbs, there is hardly a statement in McIlwain's text that cannot be supported by a quotation from a standard medieval text. Indeed—here is my own paradox—this is one of the things that is wrong with it. For I think McIlwain has read much more into those texts than the authors put there. It is also incomplete, in a way, I think, that makes its validity questionable, especially as it concerns the possibility, or impossibility, of making law.

I

Let us turn from the theologians' treatises on law and the philosophical prologues to the practitioners' handbooks to

ford, 1958), 183 ff.; T. F. T. Plucknett, *A Concise History of the Common Law* (London, 1956), 342 ff. Since the discussion has been carried on by Englishmen writing for an English audience, the participants have usually conceived only one possible meaning for the "rule of precedent," the English twentieth-century usage as it is defined in the textbooks. (C. K. Allen is the exception, but he is not precise in stating exactly what he does mean by precedent in the Middle Ages.) By this standard not only medieval English usage, but twentieth-century American usage does not conform to the "rule of precedent" strictly speaking. But is it correct to make the only possible alternative mere "consistency"? Surely it is as possible to use precedents as a source of law in various ways, and thus speak meaningfully of a "rule of precedent" or of *stare decisis*, as it is possible to have degrees of consistency.

[9] McIlwain is well aware of it; *High Court*, Chap. IV. But he unfortunately did not see its relevance to the problem of medieval law.

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look at the use of law in action, to see how law entered into the business of settling disputes. For what the historians of political theory have been discussing is not the evolution of an abstract idea of "Law," but of the answers given to the basic political question, "Who controls the content of the law *that functions as a social instrument?*"

If we look at litigation procedure we will see, first of all, that the identification of law with custom is valid only in a rather special way. For when "law" in the form of substantive principles was introduced into litigation it was as a result of a profound change in the way some people felt disputes ought to be settled. It was itself a deviation from custom, a deviation introduced, it must be added, by the kings and not by the people. At the same time it provided for the first time a way for litigants—and society in general—to define in a precise way the customs that they used. If substantive law was custom, it was only introduced into litigation by a departure from custom. Therefore any notion that the king was bound by precise rules of *substantive* law would not have been an inheritance from a previous age, as McIlwain and his followers contend, but would rather have been something quite novel in the Europe of the thirteenth century.[10] As for procedural rules, which, with tariffs of penalties, were what "custom" in the courts largely consisted of, there seems to be no question that the king—on the Continent, at least—was free to change them as he wished[11] (while judicial competence, disputed hotly by all the competing courts of medieval Europe, was not really a question either of procedural or of substantive law, but of property right).[12] Secondly, there is no justification for assuming that the law-which-was-custom was thought to be some kind of code of

10 See also J. C. Holt, "Rights and Liberties in Magna Carta," *Album Helen Maud Cam* [Studies presented to the International Commission for the History of Representative and Parliamentary Institutions, XXIII] (Louvain, Paris, 1960), 57–69. Nothing in this article should be construed as denying the existence of substantive rules in Magna Carta (which is, after all, a thirteenth-century document), but only as denying that Magna Carta should be taken as evidence for an earlier period than the one it appeared in.

11 As McIlwain admits; *Growth of Political Thought*, 187.

12 Thus, strictly speaking, institutional arrangements, like modern distribution of property, were not a subdivision of the law, but a result of the application of law.

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substantive law existing "out there" like some Platonic Idea, with the decisions of the courts being only its shadow, like those of Plato's cave. Far from being mystics, medieval lawyers were very matter-of-fact. Finally, the same intellectual and legal movement that brought "substantive rules of law" to bear on the settlement of disputes brought with it an authoritative, purposive means to create law through judicial decisions by judges or kings. This is what the "common view" with its "onlys" and "solelys" has omitted from its picture of "medieval constitutionalism."

When historians assert the identity of custom and "law" in the Middle Ages and claim that the king and his judges were bound to determine rights in accordance with this law, which they could not themselves create, they are making two distinctions, one implicitly, the other explicitly: a distinction between *law* and *fact* and a distinction between procedural and substantive law. At the time about which McIlwain writes, these distinctions were just emerging in medieval European law. Their effect on the way in which law could be made, and thus on the whole problem that the "common view" presents, was of major importance.

What do we mean by the distinction between law and fact? After the manner of those who go in for scientification, let us set up a "model" of this distinction. There is, first of all, a conceptual distinction between those things we call "facts," things that exist, or existed, or occurred, and those things we call "laws," authoritative statements of norms. This distinction appears valid until we ask how we know "facts" and how we know "laws." Then it would appear that laws are but a variety of facts, for we know them, as we know other facts, by looking at the evidence, the words in the statute book, let us say. But this conclusion would be too hasty and too simple.

A man is accused, for example, of operating a lottery, or, in medieval England, of disseising his neighbor without judgment. The court that is trying this man has apparently only two tasks: a) to find this man "operated a lottery," or "disseised without judgment," and b) to find what the law says about people who do such things. Both of these tasks, superficially only fact-finding, in reality involve settling questions of law as well. For finding that a man "operated a lot-

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tery" or "disseised without judgment," itself requires two steps. The court must first find as a matter of fact that the accused had performed certain acts. It then must decide as a matter of law that these acts constituted "operating a lottery" or "disseising without judgment." Until the court decides whether the words used in the law denote the actions involved in the case at hand it cannot find whether the law covers it and is to be applied.[13]

There is, second of all, a functional, or procedural, distinction between questions of law and questions of fact. In present day American jury trials questions of fact are usually decided by the jury and questions of law usually by the judge; mixed questions of law and fact presumably are, or ought to be, decided in part by the judge and in part by the jury. If it is not a jury trial, the judge—at least in the eyes of most lawyers—ought to make clear in his opinion what are his determinations of fact and what are his determinations of law. When we speak of the "application of law," or of determining a question "according to law," or of the king being "bound by law" we are implicitly assuming this distinction and a procedural or functional way of making it.

But when we go back to the early twelfth century, this distinction, at least as far as litigation in the lay courts of Europe was concerned, did not exist. There was no procedural way to make it. Right was decided not by an appeal to law—that is, to a legal norm—on the basis of certain facts; it was determined directly as an irreducible thing in itself. Law entered into the settlement of disputes mainly by prescribing procedural rules and by setting penalties. The judge or judges did not themselves determine the issue on the basis of facts ascertained; they only decided the way in which the parties would settle their own dispute. "Judgment preceded proof." [14]

[13] See E. H. Levi, *An Introduction to Legal Reasoning* (Chicago, 1961). For the lottery cases, 137 Mass. 250 and 146 Mass. 142.

[14] For this and what follows I am dependent on Y. Bongert, *Recherches sur les cours laïques du X^e au XIII^e siècle* (Paris, 1949); L. Halphen, "La justice en France au XI^e siècle," *A travers l'histoire du Moyen Age* (Paris, 1950), 175–202; G. Duby, "Recherches sur l'évolution des institutions judiciaires pendant le X^e et XI^e siècle dans le sud de la Bourgogne," *Le Moyen Age*, LII (1946), 149–194; LIII (1947), 15–38; R. Besnier, " 'Vadiatio Legis et Leges': les preuves de droit commun à l'époque des coutumiers normands," *Rev. hist.*

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A typical civil case would have proceeded somewhat as follows. After he had received a plaintiff's complaint the judge would cite the defendant, or have him cited, to appear on a certain day. Assuming he appeared (for he might not—legitimate excuses were numerous), the actual pleading would be very simple. Once the defendant had used up his legitimate delays, the plaintiff repeated his claim, and the defendant denied (if he felt like disputing it). There does not appear to have been much actual argument between the parties aside from this demand and denial.[15] Instead, until the very end of the twelfth century one went immediately to the administration of proof—the oath, re-enforced perhaps by co-jurors, and, if this was considered insufficient, by the ordeal or the duel. Witnesses and documentary proofs were not unheard of, but control was rudimentary. Documents depended on witnesses to prove their validity; witnesses might have to prove their veracity by the duel; and in important cases the duel was preferable to witnesses anyway, for "God does not lie." [16]

What were these proofs—the oaths, ordeals, duels, and witnesses—thought to prove? The witnesses, duel, or ordeal came only after an oath. They were proofs of the oath's truth or falsity. (See *Richard II*, Act I, Scene 1.) And by his oath the plaintiff or defendant, depending on who had to "prove," did not affirm the existence of facts whose existence or non-existence would bring about the application of a "law" that governed facts of this kind. He affirmed simply the existence or non-existence of "rights," or the occurrence or non-occurrence of injuries, that is—in civil cases—violations of rights.[17] If witnesses were called, they too affirmed the existence or violation of rights. If their word was doubted, God decided.[18] No distinction of law and fact ap-

de droit fr. 4me sér., XIX, 88–135. This last work is especially important, since it describes the procedure of the *Summa de Legibus*—which McIlwain considers so important—a procedure that allows some questions of law, but for the most part retains the older system which "proves" fact and right at the same time.

15 Charles Victor Langlois, *Textes relatifs à l'histoire du Parlement depuis les origines jusqu'en 1314* (Paris, 1888), 18–21, presents the only case of argument Bongert cites prior to the late twelfth century. It hardly approaches a real legal debate. See also Halphen, "La justice," 182 ff.

16 Bongert, 195–196, 206, 254–261, 279.

17 *Ibid.*, 183 ff.

18 *Ibid.*, 255.

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peared because the imminent justice of God not only might cap the proceedings, but pervaded it, shaped not only the form of "proof" but the form of pleading as well. This does not mean that "law" in the vaguer sense of ways it was thought one ought to behave or accepted ways for transferring property did not exist. It did, of course. But it entered into the judicial process only as the inchoate basis for the plaintiff's and defendant's claims of right and wrong. Nothing could be further from our own notions of "justice under law" except, perhaps, the open feud, the private revenge or private war which, in fact, these trials only occasionally replaced.

In 1215, the Fourth Lateran Council decreed that henceforth the clergy were not to bless the elements used in the unilateral ordeals and condemned the use of the bilateral ordeal—the judicial duel. This decree, published as Canon 18 of the Council, is generally considered a landmark, and rightly so.[19] But its significance, I think, is more symbolic than causal. Ordeals did not disappear from the European scene the next day. In witchcraft trials the ordeal of cold water continued well into the seventeenth century, and the judicial duel proved to be so deeply imbedded in the mores of the seigneurial classes that centuries were required to uproot it. Canon 18 of the Fourth Lateran Council is nevertheless symbolic of the movement towards "rationalization" (if I may be allowed to use this word) of judicial decision, because it explicitly throws God's Providence out of procedure and thus implicitly sets the question "If God does not decide, on what grounds do men decide?" This was a question which the "custom" of the past did not answer, because that "custom" left the decision on "right" to God. Canon 18 was only symbolic, however, because this question had already been implicitly posed by the growing use of what we now call Romano-Canonical procedure in the Church courts during the previous half-century, and by the new methods of proof that the royal courts of England and France had made increasing use of during the preceding decades—the jury in England, and the inquest in France.[20] It is not in

[19] See J. W. Baldwin, "The Intellectual Preparation for the Canon of 1215 against Ordeals," *Speculum* XXXVI (1961), 613–636.

[20] This division is only shorthand for a long development; in 1215 it is only accurate *sub specie posteritatis*. By the end of the thirteenth century

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custom but in these new procedures—procedures which show the influence of the new university legal studies, and which are introduced in the secular sphere *from above,* by the kings, and not by the unseen evolution of community usage —that the law-fact distinction finally emerges and with it the possibility of a human agency "applying law" to the determination of rights. The evolution was slow, but the consequences were no less certain.

As I have said, early procedure was rudimentary because it only served to fix the setting in which God would demonstrate who was right and who was wrong. When the new methods of proof were introduced, the procedure preliminary to the proof did not become sophisticated over night. In effect, the twelve men of the jury in England and the witnesses of the inquest in France merely replaced God. The issue was put to them in approximately the same way it had been put to God (though neither the jury nor the witnesses were blessed), but still without any distinction of law and fact. They were asked to declare the "right." [21]

The modern jury, presumed to be ignorant of the facts of the case at hand and therefore able to decide only on the evidence presented in court, did not come into existence until sometime in the fifteenth century. The jury as it was originally conceived was a group presumed to know who was right and who was wrong before they were empanelled. They heard no evidence but simply "told the truth" when the issue was placed before them, rendered their *veredictum,* their verdict. Thus the jury had to know not only the facts of the case, but the "law" as well.

> The jurors . . . under oath say that at last Pentecost Roger called the neighbors to his brother Robert's house . . . and he had the aforesaid Simon carried there (because he was very weak) and there had the charter of feoffment read, and Simon was asked if he gave this gift and charter, and he said yes, and that he gave freely and with good will whatever they (sic) wished. But [the jurors] say that in fact Roger did not have the seisin of [the land given by the charter] during the life of Simon, because Simon died seised of it; and this is

the different procedures had been clearly chosen and affirmed. See, in general, J. P. Dawson, *A History of Lay Judges* (Cambridge, Mass., 1960), esp. 43 ff., 118 ff.; Bongert, 262 ff.; Plucknett, *Concise History,* 120–124.

21 For this and what follows, see Plucknett, *Concise History,* 417–418.

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> quite clear, because the following autumn, Simon and Robert, Roger's brother, divided up the autumn wheat without Roger having any part of it, and thus Roger did not have seisin. . . .[22]

This was a typical early thirteenth-century jury verdict. The jury decided the question of seisin as a matter of fact. All that was left for the judge was to dismiss the defendant and put Roger "at mercy" for his false complaint. The jury in this case—and in many others—is nonetheless aware that a person is seised because of certain facts, and before a half-century has passed the judges will recognize a legal definition for what it is and reserve the question, "seised or not seised?," for their own decision.[23]

The same was true of the inquest in France before the Romano-Canonical procedure forced a distinction to be clearly made. The witnesses called by the *enquêteurs* were asked to tell what they knew about the "right" claimed. In 1202, in a case concerning someone's claim to expropriate the property of a deceased bishop, the witnesses are asked under oath "whether they know that the [plaintiff] *aliquid iuris haberet.*" [24] As late as 1254 an *enquêteur* could report back to the king's court that a witness in a case involving the possession of high justice had answered "that for forty years and more he saw that the archbishops of Reims had high justice in the burough and appurtenances of St-Rémy, and never saw the king or any other temporal lord get involved in it . . ." [25] without the *enquêteur* asking what soon became the standard question, "How do you know?" Once they started to ask that question in the second half of the thirteenth century, the witnesses only told what they had seen. "Archard . . . said that Richelde . . . complained to [the court of] the abbot of Saint-Faron that Guy the Deacon had raped her. The woman had her *denarios* from the abbot. . . ." [26] The judges decided what legal construction

22 F. W. Maitland (ed.), *Bracton's Note Book*, II, 635, no. 825 (London, 1887). (The case is from 1233.)

23 Plucknett, *Concise History*, 417.

24 E. Boutaric, "Arrêts et enquêtes antérieurs aux Olim," *Actes du Parlement de Paris* (Paris, 1863), I, ccxix.

25 P. Guilhiermoz, *Enquêtes et procès* (Paris, 1892), 312.

26 Boutaric, "Arrêts et enquêtes," cccii (1223–24).

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to put on the facts reported. Thus the new "rational" methods of proof did not, by themselves, mean that "customary *rules* of substantive law" would be used to decide disputes. The members of the jury and witnesses of the inquest, it is true, undoubtedly applied customary notions of right and wrong when deciding their *veredictum*. For a moment the average knight's ideas of right and of seisin determined the decisions of the court. But what relation do these notions bear to rules of law? Common notions of responsibility and reasonableness, common ideas of the way "things ought to be done," a general but imprecise consensus on the meaning of words lie behind both, but where the latter are fixed for a class of cases (and may thus be properly termed "rules") the former are much less affected by any "institutional memory," are largely fixed *ad hoc* in each case, are controlled by an oral tradition rather than by professional training. Historians of medieval law have generally assumed without evidence that the formalism of thirteenth-century custom was but a mitigated form of an even greater formalism during the dark centuries that preceded. But the opposite seems to have been the case. Not only did courts scarcely survive, but when they did function, there was hardly any consistency, still less formalism, to their procedure. Even such a fundamental question as the burden of proof was apparently quite arbitrarily settled from case to case.[27] Only when the new procedures and methods of proof had introduced professionals—and the "lawful men of the shire"—to a new kind of precision, to the distinction of law and fact, did substantive legal rules begin to play a role in judicial judgment. And by the mid-thirteenth century the professional judges were starting to monopolize the determination of those rules. The judges—or those who controlled the judges—kept their monopoly from then on. The content of this law was in part the same as that of the oral tradition, and its ultimate source was undoubtedly to a certain degree the "usage of the people" and such explicit recognition of those "usages" as Magna Carta, the "Statute" of Merton, or the *Summa de Legibus*, for the judges were themselves part of the "people" and heirs of tradition. But

[27] Bongert, 183–186.

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it was the decision of the judges to use these rules that led them to be used in litigation. As Julius Goebel remarked on another occasion, ". . . it may have been folk-law, but it was the law of the folk in power."

In England under the new procedure the issue of any judicial dispute was normally set out in a writ, in France in a complaint. The defendant, furthermore, could now do more than merely deny and trust in God. He could present what thirteenth-century lawyers called "exceptions" to the writ or complaint. In England, for example, a plaintiff might claim a freehold as his inheritance on a writ of *mort d'ancestor*. The writ ordered the sheriff to summon twelve "free and lawful men" to "recognize"

> whether O., father of the aforesaid G., was seised in demesne as of his fee of one virgate of land in that vill on the day . . . he died, [if he died] after my first coronation, and whether the said G. is his nearer heir. . . .[28]

In spite of the writ's peremptory form, the jury was not merely assembled and presented the question straight away. First came the debate between the parties. The defendant could do more than simply "traverse"—that is, deny word for word—the plaintiff's charge. He could try to bar the claim by arguing, for example, that the plaintiff was a bastard and thus could not be anyone's heir. This exception might in turn pose the question whether a legitimized bastard was a legitimate heir, or whether subsequent marriage legitimized prior offspring.[29] These were questions of law, and at this point the judge intervened. He would have to settle these questions of law before an issue could go to the jury. It was up to the judges to decide how these exceptions or counterpleas affected the question that the jury would ultimately be asked. (The Year Books, in effect, were textbooks teaching how to raise exceptions and what the judges might do with them.) In precisely this fashion the Common Law was "secreted in the interstices of procedure." Substantive rules were secreted so slowly, though, that when

[28] R. C. Van Caenegem, *Royal Writs in England from the Conquest to Glanvill* [Selden Society, 77] (London, 1959), 465, from Glanvill.

[29] For example, *Year Book 5 Edward II* [Selden Society, 33] (London, 1916), 161 ff.

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Henry of Bracton decided in the mid-thirteenth century to compose his *De legibus* on the model of Justinian's *Institutes* he could find English parallels to only two of Justinian's three books on substantive law. And the material was so sparse that he devoted only seven folios to the law of persons and ninety-two to the law of things, as compared with over three hundred on procedure.[30] Laws including customs, royal orders, decisions of the royal council, and even, on occasion, provisions of Canon Law,[31] slowly came into the judicial process in this way, through the action of royal judges guiding the pleading on a royal writ.

In France "law" developed in the same manner. Before going to "proof" the defendants presented substantive rules as legal exceptions to the plaintiff's plea. The thirteenth-century legist Beaumanoir devotes a chapter to them.[32] And, at the stage in procedure after the "proof," where English judges were largely restricted to the construction of legal concepts on the limited facts presented by the jury,[33] the French judges, reducing the witness-"proofs" to the rank of mere testifiers to facts they had seen, developed rules of substantive law at will. The answers of witnesses did not decide the case. This was the job of the judges, who might take into consideration other factors than the sworn statements collected by the inquiring commissioners: *ius commune,* written charters, Roman Law.[34] The power to decide, on grounds which ultimately were of their own choice, was clearly in their hands. The movement in the thirteenth century to adopt the system of Romano-Canonical proofs,[35] including written evidence and the close questioning of witnesses to find out *how* they knew what they said they knew,

30 T. F. T. Plucknett, *Early English Legal Literature* (Cambridge, 1958), 51, 59.

31 F. W. Maitland, *Roman Canon Law in the Church of England* (London, 1898), Chap. V: "*Execrabilis* in the Common Pleas."

32 Philippe de Beaumanoir, *Coutumes de Beauvaisis,* Chap. VII, esp. 238, 240 ff., ed. A. Salmon (Paris, 1899), I, 122–134.

33 "Seisin," for example; Plucknett, *Concise History,* 417.

34 For example, a case of 1202 in Boutaric, "Arrêts et enquêtes," ccxcix.

35 See, in general, J. Ph. Levy, *La hierarchie des preuves dans le droit savant du Moyen Age* [Annales de l'Université de Lyon, 3me série, Droit, fasc. 5] (Paris, 1939).

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all contributed to making the witnesses mere witnesses to facts, and the judges the determiners of law.

If this is the case, how could the authors of thirteenth-century "customary" lawbooks—the anonymous writer of the *Summa de legibus,* Glanvill, Bracton, Beaumanoir—say, as they clearly do, that law is custom? The answer is that these authors knew what they were writing. But they were writing as lawyers, not as theorists of constitutional government; they were speaking of the sources of law, not on the nature of the ultimate sovereign.

II

When Henry of Bracton decided to distinguish English procedural from substantive law and to write on the latter as well as the former, he was forced to ask, like his contemporary French judges, where he could find this law. Unlike the canonists and romanists, he had few written texts to appeal to; the only written texts in English law were the royal writs and a few royal confirmations of general "customs" and "liberties," such as Magna Carta. Bracton presented his solution in the opening paragraph of his *Introductio:*

> Although for the most part in all countries one uses written law, England alone uses unwritten law and custom. In England, to be sure, from unwritten law that usage confirms comes law. But it is not absurd to call English laws *'leges,'* (statutes) even though they are unwritten, for whatever is justly defined and approved with the counsel and consent of the magnates and the common agreement of the *rei publicae,* preceded by the authority of the king or prince, has the force of statute.[36]

McIlwain and those who follow him use this as one of the major proofs of their theory.[37] Before asking whether it does or does not prove that theory, I want to make two observations. First, Bracton, while a brilliant lawyer (as anyone would have had to be to create some semblance of order out of the almost hopeless chaos of English thirteenth-century

[36] Bracton, *De legibus et consuetudinibus Angliae,* f°1ª, ed. G. Woodbine (New Haven, 1922), II, 19.

[37] *Growth of Political Thought,* 192; *Constitutionalism,* 69–70; Haskins, "Executive Justice," 532.

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practice), was dependent on the learned vocabulary of his age. He could get no aid here from the vocabulary of the English law courts, which did not bother with these kinds of theoretical problems. That of the universities, dependent on Roman Law, distinguished in Civil Law only written and unwritten law. Of the latter the major part was called "custom," the remainder Roman "common law." Custom was, therefore, the only thing that English unwritten law could be called, and he adopted the definition in the *Institutes:* "The unwritten law is that which usage has approved: for ancient customs, when approved by consent of those who follow them, are like statutes." [38] Secondly, Bracton immediately follows this definition of English law with the following: "There are also many and diverse customs in England according to the diversity of place. And the English have many things *ex consuetudine* which they do not have *ex lege,* as for instance in diverse counties, cities, boroughs and towns, where one must always enquire what are the customs of the place and in what way those who allege customs use them." [39] That is, he clearly distinguishes between local customs and the custom of the realm. Local customs are discovered by asking, "What are the usages here?" But where does one find the customs of the realm? In the next paragraph he tells us: not by asking an inquest to say what the usages are, but by looking at the *vetera iudicia iustorum,* the old judgments of the just,[40] of which he had collected a great number in his own *Note Book,* and which in fact he used as the primary source for his treatise. Some writers have claimed that this marks the beginning of the use of precedent in English law.[41] Holdsworth and Plucknett have both vigorously denied it, though Plucknett's alternative explanation, that Bracton was using cases as "scientific" rather than as "authoritative" sources, would seem to need some amplification.[42] There is still a third possibility which no one, to my knowledge, has yet suggested.

38 *Institutes,* I, ii, 9, Translation by J. B. Moyle (Oxford, 1913), 5–6.

39 Bracton, *De leg.,* f°1ª (ed. Woodbine, II, 19).

40 *Ibid.*

41 Notably C. K. Allen, *Law in the Making,* 183–185.

42 Plucknett, *Eng. Legal Lit.,* 58–59.

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The glossators of both Canon and Roman Law devoted considerable space to the problem of custom, especially the problem that it presented the judge: Was a custom alleged really a custom or not? For the Romanists this was important because custom was recognized by the *Corpus iuris* as a major source of law. The Canonists, once they had got over their early reluctance, also recognized that custom was part of the basic legal tradition of the Church;[43] and even Boniface VIII, who is usually considered the most extreme exponent of the hierocratic theory of church government, in his decretal *Licet Romanus* stated that no papal constitution could override a local custom unless that custom were *specifically* mentioned in the constitution.[44] Bernard of Parma, in the *Glossa Ordinaria* to the decretals of Gregory IX, written about the same time Bracton was composing his *De legibus*, lists the characteristics that Canonists had thought made a custom valid—that it be reasonable, that it not be contrary to natural law, that it be held by the majority, and so forth, "or at least that it be proved by a court's judgment after debate."[45] That is, the existence of one judgment concerning a custom was sufficient to prove that custom's existence and lawfulness. After such a judgment there was no need to ask again whether that custom were really a current usage. A custom, once judged, led a life of its own. And the judge was under no compulsion to inquire about the "reality" of a usage before judging. Indeed, under certain circumstances he could not have done so. In this sense a past judgment was both a "scientific" source and

[43] See R. Wehrlé, *De la coutume dans le droit canonique* (Paris, 1928); and R. Köstler, "Consuetudo legitime praescripta," *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, XXXIX, *Kanonistische Abteilung*, VIII (1918), esp. 158–173.

[44] C. 1, *in VI°*, I, 2.

[45] *Glossa ordinaria* to c. 11, X, I, 4. *ad v° legitime sit praescripta* (ed. Lyon, 1554. col. 89). The reference to this use of judgment as a proof of custom comes in the middle of the list. It seems unlikely that it is meant to qualify only the requirement that custom not be against natural law, in spite of the fact that it immediately follows that particular requirement (Wehrlé interprets it thus, 146 ff.). Bernard of Parma is only listing all the opinions of the canonists, in apparently random order, putting his own opinion, in which he simply repeats the decretal he is commenting, at the end—the custom must be reasonable and prescribed. Later discussions indicate that the canonists considered all the other requirements fulfilled if a judgment had been given confirming the custom (*ibid.*, 205–206).

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an "authoritative" source. It told him what the "custom" was, and he was required to follow it if it was applicable.

Bernard's connection of custom with a court judgment was, by the time he wrote, a commonplace of the Schools. It received a complete exposition at the beginning of the thirteenth century in the *Summa* on the *Code* by the glossator Azo, a work which Bracton used continuously. If custom derives its force from the "tacit consent" of the people, Azo asks in his commentary on Book VIII, title 58, how can the judge know when that tacit consent has been given? Or, as he put it, "By what signs can it be known that a custom has been introduced [that is, that a custom exists]?"

> Mainly by one of these three signs. First, that it was so decided without anyone denying it. Second, that complaints regarding the custom in question have not been received by the court. Third, that someone claimed in court that the custom did not exist, and a judgment declared on the contrary that the custom did indeed exist.[46]

Using an official act to signify popular consent may seem strange to modern eyes (though perhaps it is no odder than some modern political myths). It was justified by assuming that the judgments were rendered in the presence of "the people." If they did not object they presumably consented.[47] Or else it was justified simply by saying a judge is presumed to have judged in knowledge of the facts and according to the law.[48] For the judge the problem is solved when there has been a previous judgment.

The French legist Beaumanoir adopted this theory of the Schools in his own definition of custom.[49] And it seems to me quite plausible that when Bracton realized that the rules of English law were to be found in past judgments, this com-

[46] *Summa Azonis, locuples iuris civilis thesaurus* (Venice, 1584), col. 874. Translation in Wehrlé, 141.

[47] This was suggested by Azo, *Summa Azonis*, col. 874; Wehrlé, 140–141. It was made the sole "cause" of custom by the thirteenth-century French civilian, Pierre de Belleperche, whom Johannes Andrea followed on this point; *ibid.*, 204. On tacit consent to custom see H. Pissard, *Essai sur la connaissance et la preuve des coutumes en justice dans l'ancien droit français et dans le système romano-canonique* (Paris, 1910), 25–33.

[48] C. 25, X, V, 40; Pissard, 32.

[49] Beaumanoir, XXIV, 683 (ed. Salmon, I, 346–347).

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mentary of Azo would have convinced him that "custom" was the proper term for it. It would have convinced him without forcing him at the same time to construct any theory about the ultimate "nature" of that custom, beyond stating the commonplace generalities about "common usage." The question that has so vexed some modern theorists—does custom exist as law before it is used by the court?—he, like Azo, appears to have answered without giving it too much thought, "No." Practice both in England and on the continent recognized that some cases might be so novel that the judge would have to decide what was "custom" (since it was neither *ius scriptum* nor yet *ius commune*) without there being any actual "usage" to inquire about; and many issues raised about pleading on royal writs would certainly have fallen into this class. Or, the circumstances might be so complex that the judges were faced with a problem of extending "custom" to resolve a completely novel dispute. The court would then be forced to establish "custom" by its own decision without inquiring into non-existent "ancient usage." [50]

When Bracton distinguished between the custom "proved" by the past decisions, and the local customs found by inquiring into actual usage, he did not necessarily think that both were "usages" in exactly the same sense, or that they had precisely the same origin. Indeed, he probably thought quite the contrary; and that is why he made the distinction.

Does the opening paragraph of Bracton, the statement that English law is custom, support the weight the "common view" is inclined to place on it? I think not. For Bracton is speaking of the custom declared by the king's court and only thereupon "used." He realizes quite well that these are distinct from those customs that are usages of the people *recognized* by the court. Furthermore, these are *singular* customs and unwritten laws, not a complete, transcendent body of rules, but, as with the glossators, a set of particular practices and court decisions. European lawyers of the thirteenth century indeed generally thought of custom in these very specific, very factual terms; custom was something which *had been used*, with the emphasis on the past tense.

[50] See, for example, the decision of the French royal court on the succession to the lands of Count John of Beaumont-sur-Oise, in Boutaric, "Arrêts et enquêtes," ccci–cccii (1223).

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The term "custom" had a number of uses in the Middle Ages. It could mean "substantive rules of law," as Bracton used it. But it could also mean simply an acquired right to have the regular use of something or to collect money from someone on given occasions.[51] The distinction between this "custom" and the custom that was a substantive rule, especially when the former was a *local* custom, was not always very clear. Not only charters of the unlearned, but even the Decretals of Gregory IX [52] and some texts of Roman Law itself [53] confuse the two. The glossators of Canon Law down to the fifteenth-century Nicholas Tedeschi had to go to great length to describe the differences between the two,[54] so much did they seem to be only two *species* of the same *genus*.

The form that acquired rights took in non-Roman medieval law was *seisin*. This concept—which drives first year students of property law to distraction—is quite alien to our own notions of "possession" and "proprietary right." [55] It grew up in an age when no procedure existed to vindicate proprietary rights on the basis of "titles," in an age when very few property rights could be proved by any written document, when, indeed, written documents were mainly used for listing witnesses who could be called to swear to the transaction, and babies, slapped to impress on them the importance of the occasion, were the most sought after witnesses. The life expectancy of the witnesses was the life expectancy of the charter.[56] *Seisin* was a form of right in

51 For an earlier period, see the comments of J. Goebel, 217–228; for the thirteenth century, Köstler, "Consuetudo legitime praescripta," 164–169; Pissard, 5; Wehrlé, 119, n. 3 (whose explanation why this confusion took place reflects an unfortunate lack of familiarity with medieval vocabulary), 121 ff.; L. Buisson, *König Ludwig IX, der Heilige, und das Recht* (Freiburg, 1954), 9–10.

52 Wehrlé, 100.

53 *Ibid.*, 13, 27.

54 *Ibid.*, 262–263.

55 The basic works are E. Champeaux, *Essai sur la vestitura ou saisine* (Paris, 1899), 27–40, 53 ff.; F. Joüon des Longrais, *La conception anglaise de la saisine du XII^e au XIV^e siècle* (Paris, 1925), 20 ff.; E. Levy, *West Roman Vulgar Law: The Law of Property* [Memoires of the American Philosophical Society, 29] (Philadelphia, 1951), 63.

56 A. de Boüard, "Un effet de la canonisation du droit romain au XII^e siècle: l'instauration de la juridiction gracieuse en France coutumière," *Actes*

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property based originally solely on past use. Furthermore, a person did not really so much have seisin of a piece of property—as we now "own" a house or a plot of ground—as of the right to take a certain kind of regular income from that property, the regularity of that income being essential. The income might be money, but it might also be symbolic, or it might be in the form of rights of jurisdiction. There was no real seisin of a plot of ground, let us say, because various seisins could concern the same plot. Indeed, the whole structure of "feudalism" rests on this. One person might have seisin of the tithes of wheat, another of a rent, another of services, and still another of the right to hang murderers. In England, the term "seisin" was restricted to freeholds in the course of the thirteenth century, but in France it remained the form of right to any kind of real or incorporeal income.[57] Since the property rights of which a person could be "seised" consisted of regular income, or the regular exercise of specific rights, and since it was based on past usage, it was hardly distinguishable from custom, at least from the custom which was also the right to take certain regular payments, or to exercise, or be free from, certain rights or duties —the kinds of "customs" contained for example in the charters to communes of the twelfth and thirteenth centuries.[58] When we remember that not only physical persons but legal persons—towns, monasteries, cathedral chapters, and so forth —could have seisin of property rights, the confusion is complete.

The confusion still showed up in the fourteenth-century glossators of both Roman and Canon law when they found they had to discuss how customs are "alleged" by parties in their arguments and "proved" by them, even though customs are law and a judge ought to know what the law is![59] It showed up also in the procedure of the Parlement of Paris,

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du Congrès de Droit Canonique (Paris, 1950), 173.

[57] F. Olivier-Martin, *Histoire de la coutume de la prévôté et vicomté de Paris* (Paris, 1922–1930), I, 202–212.

[58] See, for example, H. F. Delaborde, *Recueil des Actes de Philippe Auguste, Roi de France* (Paris, 1916), I, Nos. 10, 21, 30, 35, 40.

[59] Pissard, 18. Note the curious cases in *Les Olim* [Collection de documents inédits] (Paris, 1864), III, 547–548, No. XLII; and in Guilhiermoz, 8, n. 3.

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whose competence covered *pays* of so many different customs. When it decided on the existence of a given *seisin* by inquiring into past use it might also be declaring the existence of a custom, since lords or towns were seised of "customs" as they were of tolls or of justice. After the 1250's the Romano-Canonical *enquête* was used in these cases. When the point in dispute was not whether an individual possessed a "custom" but whether according to the custom of the country the plaintiff ought to have a given right, such as an inheritance or a marriage portion, the Parlement used the *enquête par tourbe,* a jury empanelled by the judges to give a unanimous statement of custom. But this distinction too disappeared; the *enquête par tourbe* quickly fell under the influence of the regular *enquête* procedure of the courts—the inquiry into matters of fact. Eventually the *tourbiers* were presented by the parties, as were ordinary witnesses, and the witness to a custom was hardly to be distinguished from the witnesses to a fact.[60] If the judges had really felt the difference strongly, would they have allowed this to happen? In all these cases, customs were rights, considered to be "facts," whose "justification" was either past use or some written grant, whose existence was proved either by a sworn inquest or by a past judgment of a court, or whose notoriety made them indisputable. In this sense judges indeed "found" law, but not in any mystical fashion. These customs were certainly far from transcendental.

It was, I think, *this* confusion of the two kinds of custom and not any notion of the immutability of a body of substantive law, that led medieval men to think of customs as acquired rights, not only the customs that put money in their wallets, but also for example the writs which issued *de cursu* from the English royal chancery that gave men remedies for their injured rights.[61] There is really, therefore, no paradoxical conflict, such as G. L. Haskins tried to make out,[62] between the medieval theory of law and the actual history of its development from royal innovations. The statements of Bracton that are a primary source for the generally ac-

60 Pissard, 65 ff.

61 Bracton, *De legibus,* f°413b.

62 Haskins, "Executive Justice," *passim.*

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cepted theory do not on their face concern the most important area of law-making—the making of laws to regulate and decide new situations and novel problems.

Not only is this implicit in the concepts I have just discussed, but Bracton says so explicitly in his *Introductio:*

> If, however, new and unaccustomed practices should appear which have never before been used, if similar things had occurred the new cases should be judged by analogy, since these are fit times to proceed by analogy (*a similibus procedere ad similia*). If, however, such similar practices had never before appeared, and the judgment of the case is beclouded with difficulties, then the judgment should be given to the *magnam curiam,* the great council, to be decided with the advice of the council. Although, to be sure, [he adds], there are some who think so much of their own knowledge, as though they knew all the law, that they do not want anyone's advice.[63]

The problem Bracton was raising here was that of equity, for it was in terms of equity that medieval lawyers generally answered the question, "How do you settle the novel case?" Specifically, Bracton was stating who he thought ought to decide what the equitable solution was, the king and his council, or the judge. In modern terms, Bracton was facing the same problem as that of a judge asked to decide a completely novel dispute. Should he settle it as best he can, referring to the basic standards of law if there is no specific statute or precedent he can rely on? Or should he say: "This is a novel case. I can find no law on it. Take it up with the legislature. Case dismissed."?

Bracton's answer is reminiscent of the answer that Azo, his main master in Roman Law, had given:

> Sometimes in court proceedings there is a doubt about how a novel affair is to be settled; sometimes there is a doubt about the meaning of a law. If the doubt concerns a new affair, the Emperor is to be consulted, if he is present and if

[63] Bracton, *De legibus,* f°1ᵇ (ed. Woodbine, II, 21). In the previous sentences Bracton speaks of laws and customs "approved by use" that cannot be "changed or abolished" without the common consent of those who had given counsel and consent to them at their creation. (On the significance of this, see the forthcoming article of E. Lewis, "King Above Law? *Quod principi placuit* in Bracton."). All reference to their consent is omitted in his discussion of reasoning by analogy and the equitable jurisdiction of the king.

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> it is possible. . . . If it is not possible, one must proceed *de similibus ad similia*. . . . If the doubt concerns the law, in the event the law is understood in a certain way by custom, it should be used according to that understanding. . . . But if it has not been given a definite interpretation by custom, one must have recourse (as was said) to the Emperor, if possible. . . .[64]

In the England of Bracton's day a judge had no problem taking a question to the King's Council; the comments of Azo about the Emperor being present were irrelevant. So were those of Azo's comments that only made sense in a system of written law. In effect, Bracton conflated the two problems that Azo had so carefully distinguished. In England there could only be the problem of the novel case. These, Bracton says, should be solved by looking at the solution given in an analogous case, that is, the customary solution of a similar case, from which the judge should reason by analogy as the glossators said he should reason by analogy from the situation described in a written law. It was probably because he was combining the solutions to two different problems that Bracton ended in the confusion he did. How could a practice be "new and unaccustomed" if similar cases had already been judged?

Bracton's answer is also very reminiscent of a passage in a work of the twelfth-century Roman law glossator Rogerius, the *Enodationes quaestionum super Codice,* in which he discusses the power of the judge to interpret written law in the light of equity. The judge may extend a law (*de similibus ad similia procedere*) in those cases "in which the same reason of equity is used," but he may not interpret an obscure law, except by reference to custom. If custom gives no answer, only the emperor may interpret. Likewise, if equity

[64] *Summa Azonis,* Code I, *De legibus et constitutionibus principum, et edictis,* 12 (ed. Venice, 1584, col. 25). A bibliography of recent works on the problem of ancient and medieval equity is given by G. Kisch, *Erasmus und die Jurisprudenz seiner Zeit* (Basel, 1960), 529–538. Of primary importance for the specific question discussed here are G. Zanetti, "Carattere canonico dell'aequitas nella letteratura civilistica preirneriana," *Rivista di storia del diritto italiano,* XXVI–XXVII (1953–54), 227–245; E. M. Meijers, "Le conflit entre l'équité et la loi chez les premiers glossateurs," *Tijdschrift voor Rechtsgeschiedenis,* XVII (1940), 117–135; C. Lefebvre, *Les pouvoirs du juge en droit canonique* (Paris, 1938); V. P. Mortari, "Il problema dell'interpretatio iuris nei Commentatori," *Annali di storia del diritto,* II (1958), esp. 47 ff.

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and law conflict in a case where the application of a law ought equitably to be restricted, only the emperor may make such a decision. "There are some fools," he goes on, "who say the opposite, preferring their own ideas to the legally manifest authority of the prince, shamelessly and foolishly asserting that they know equity, which they do not, and thinking that they therefore can do anything they want." [65] There is no way of knowing whether Bracton was acquainted with this text, but the intent of the two passages is certainly the same, even though Bracton is castigating certain judges and Rogerius insulting an opposing school of glossators. The distinction that Rogerius drew here between extension of a written law and derogation from it of course was not relevant to the problems of thirteenth-century England; but Rogerius says elsewhere, and the school of which he is a prime example repeats and expands his idea, that the judge may only proceed by analogy when the legislative will behind the law clearly covers the case at hand, assuming that the letter of the law does not. Some twelfth-century glossators, indeed, insisted that the intent not only be clear but written. It is this *mens legis* that Rogerius refers to when he speaks of the *eadem equitatis ratio*. Where the legislative will is unclear, or where no laws, even considering their intent as well as their words, cover the case, the emperor alone may decide.[66] This "legislative intent" had nothing to do with research into legislative archives. The historical reasons were explicitly ignored. The intent of law was deduced from the circumstances it explicitly governed, seen in the light of the related norms of positive law. This is why, by the mid-thirteenth century, the *mens legis* had been identified with the *ratio legis*. The glossators justified this by saying reason was a necessary attribute of legislation. The act of legislating gives form to reason. In seeking the *ratio legis* the interpreter thus seeks the true intent of the legislator.[67]

While Bracton could not speak of a legislative will behind

[65] H. Kantorowicz and W. W. Buckland, *Studies in the Glossators of the Roman Law* (Cambridge, 1938), 284.

[66] The texts of the Glossators and Commentators are fully discussed in Lefebvre, 30 ff., and Meijers, *passim*.

[67] Mortari, 69 ff.

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the custom of the English royal courts, he is obviously following the school of Rogerius in limiting the judge to analogous extension of a law only where it clearly fits. Obscurities and doubts, as with the glossators he follows, must be resolved by the authority of the prince. Note that when Bracton speaks of judging new cases there is no reference to the "usages of the people," no reference to the counsel and consent of the magnates. Note also that Bracton follows the more "authoritarian" line of glossators, rather than those whom Rogerius had called "fools" who granted much wider equitable powers to the judge.

The question remains, did the glossators and Bracton conceive of this ruling in accordance with equity either by the king or by the judges as making new law or "finding" a pre-existent law? As far as the fourteenth century is concerned there can be no question. Baldus is clear: "When law is wanting the judge decides, and he is called Prince." [68] Statements from fourteenth-century Year Books, such as the one my pseudo-Abelard used, "The judgment to be given by you will be hereafter authority in every *Quare non admisit* in England," are equally forthright. The advocates arguing before the Parlement of Paris have no doubts about what they are doing when they argue over the legal meaning of a previous judgment.[69] And a Burgundian text from the end of the fourteenth century states that "judicial sentences confirmed by the [Duke] in Council . . . are called approved customs . . . and have the force of law in Burgundy." [70] In the thirteenth century, the *Glossa Ordinaria* to the *Digest* stated, "The judge makes law when he proceeds *de similibus ad similia.*" [71] This is indicative, but I would not want to place too much reliance on an isolated example. Much more important are the limitations that the school of Rogerius, and Bracton, place on judicial reasoning by analogy, limiting it to cases where the legislative will is clear, or, in Bracton, to those where the similarity is clear. Other cases had to go to the Emperor, said the glossators, because only then will the law be necessary, and general—that is, be like

[68] Gloss on c. 1, X, I, 2, quoted by Lefebvre, 76, n. 33.

[69] See my "La justice," 379 ff.

[70] M. Boulet (ed.), *Questiones Johannis Galli* (Paris, 1944), 560.

[71] *Dig.*, I, 3, 1, 12, *ad v° Iusque*, quoted by Lefebvre, 76.

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written law.[72] And the twelfth-century English glossator Vacarius added that it is necessary to have the prince's interpretation in order that no one should doubt the law and so that judges would be able to reason analogously from it.[73] Thus the equitable power reserved to the prince is clearly legislative, and it would be surprising if Bracton, who is here so obviously dependent on the Roman law glossators, did not mean the same thing.

Conclusion

For all these reasons, I think, McIlwain's view of the nature of medieval "feudal" law and the impossibility of legislation within it, is not consonant with the medieval texts that it claims to expound. Of all the sources that McIlwain uses, Bracton is clearly the most "normative" in his discussion of custom and law-making. From the other medieval writers, Jean d'Ibelin describing the administrative inquest preceding the establishment of the custom of the Holy Land, the chapter "De consuetudine" of the *Summa de Legibus,* one may conclude at most that the rulers normally left the population to use the customs they had always used.[74] But then our present-day legislatures also leave to private law-making a rather large field in which to plant "customs." In all the medieval legal sources, the power to determine what is law, and thus to create law to meet new circumstances is clearly in the hands of the judges and the judges' royal masters.

What I have said for Bracton goes, *mutatis mutandis,* for the others. First, the idea of an immutable transcendental code of substantive law can be found nowhere. Procedure in secular courts before the late twelfth century would have made such an idea useless, while revived Roman and Canon law had a quite different notion of law and custom. The *idea* of substantive law (if not its existence in common usages, only partially and indirectly enforceable in a court of law)

[72] The major texts are quoted by Mortari, 102, n. 297.

[73] Meijers, 124.

[74] From the same texts that McIlwain and Carlyle use to establish their "customary" theory of medieval law, Pissard (p. 88) concludes that the source of custom's authority is "the tacit authority of the prince." The same text may mean many things to many people.

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is novel in the thirteenth-century world of non-learned law. It appeared under the impact of the same Roman and Canon laws that brought with them the idea that the king may legislate, as well as the notion of the *status regni* that set the kingly office apart from the rest of the feudal baronage. Second, when the sources speak of the unchangeableness of custom, they are speaking of acquired rights, those that have already been used and proved. As such, the idea of "custom" places no limits on princely or judicial power to make new law for new problems.

If the sixteenth-century ideas of fundamental law limiting the exercise of kingly power actually go back to the Middle Ages, and I think McIlwain guilty of a serious anachronism when he says that Coke's ideas were basically medieval,[75] they go back not to some notion of fundamental feudal substantive law, but to the claim of the judges to decide matters of law mainly by reference to their own acts—to the beginning of that "artificial reason of the law" that Coke threw in the face of James I. In the sixteenth and seventeenth centuries judges were claiming institutional independence of the king, and were thus forced to give their law a transcendental justification to preserve it from the divine right of the king. The medieval judge felt no such need, for his right to speak the law, as we have seen, came precisely from his position as "the king doing justice."

The problem still remains, of course, to discover how the kings of Europe, once they had begun to legislate, and the judges to make law, managed to enforce their law on people who earlier would as soon have ignored it as obeyed it. But that is a problem of past politics, in which our pseudo-Abelard, as a good political philosopher, would probably not have shown the slightest interest.

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[75] *Growth of Pol. Th.*, 198.

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REVOLUTION AND FOREIGN POLICY: MEXICO'S EXPERIENCE

THIS study is not intended to cover the events that took place in Mexico, nor in her international relations, during the Revolution. Some of the salient aspects of those relations have been examined in several monographs and, more exhaustively, in a major recent work.[1] It will be more rewarding, rather, to outline the international aims and principles engendered by the internal postulates of the Revolution, and to gauge if, after fifty years, they are still valid, or if, in the light of the new international situation and the present state of the country, a new evaluation of those aims and a restatement of such principles are required.

The international aims of a country are the result of a complex of forces, some, like geography and history, permanent, others, like the changing international picture, transitory. When the action of the constants is particularly strong, the international attitude of a country presents in the course of history a distinct profile and a marked continuity. Thus, in the case of Mexico, its history preceding the Conquest, the centuries under Spanish domination, its nearness to the United States, the different roads followed by the two countries, the nature and limitations of the country's resources, and the very character of the people and the soil have impressed upon its foreign policy certain characteristic and permanent features. Since independence, Mexico's attitude towards the outside world has been cautious and reserved, and its foreign policy essentially defensive. This explains why a special value has been attached to certain international principles in the course of its history and why some international aims have achieved pre-eminence over others.

I

Mexico emerged into independent life under difficult conditions. The weak economic structure of the country, its

[1] Isidro Fabela, *La Historia Diplomática de la Revolución Mexicana*, 2 Vols. (Mexico, 1958–59).

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lack of social integration, and the ideological split among the leading classes all hampered its first steps and hindered its advance toward the future, in the manner characteristic of new nations. The country's efforts and resources were not utilized for development, but to survive and to preserve its spiritual and physical integrity. The first international loans were earmarked for subsistence itself, and not for development, which may explain why they were obtained on such disadvantageous terms. The domestic upheavals of the first years weakened the country's resistance to North American expansion, and gave rise to innumerable international claims that would become a scourge to the country. Fifteen years after independence, Mexico suffered its first mutilation, and scarcely ten years later it was reduced to half its territory. The succession of internal revolts and foreign interventions, threats, pressures, and invasions seemed endless. Between each episode, new foreign claims accumulated and served as a pretext for the next. Over this tragic period, Mexico was constrained to sign two agreements with the United States (1838 and 1868) for payment of a spate of claims for damages to American citizens that were always excessive, often unjust, and at times fraudulent.[2] Foreigners settled in Mexico benefited from the lack of competition from local capital; yet their governments intervened to protect them against the risks inherent in the political instability of the country, which is a normal consequence of economic backwardness.

The first fifty years of independent life were in the main a sequence of foreign onslaughts. It is not to be wondered that the country's international stand became hermetic, nationalistic, distrustful, and defensive; the "outside world" meant only a source of nameless troubles for the country.

II

International relations became stabilized during the dictatorship of Porfirio Díaz. The order imposed by Díaz during more than thirty years allowed the international situation to settle down, at least insofar as the causes and pretexts for foreign threats were concerned. The French intervention of the 1860's was the last in the series of armed incur-

[2] Fabela, 19.

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sions Mexico had to withstand until 1914. During that period, Mexico's northern and southern borders were determined by treaties with Guatemala, Great Britain, and the United States (with the latter, the frontiers of common rivers were defined). A number of treaties of friendship, trade, and navigation were also agreed upon; those with European and Latin American countries included provisions relieving the parties of responsibility for damages caused by civil strife. Mexico participated in the two important Peace Conferences at the Hague (1899 and 1907) and in the first three Pan American Conferences of Washington (1899), Mexico City (1902), and Rio de Janeiro (1906). On more than one occasion during this period, Mexico also took part in Central American politics.

The most salient characteristic of the policy of Porfirio Díaz, however, and one that had international repercussions, was his generosity toward foreigners. Convinced that Mexico's progress required the removal of all obstacles to foreign capital, the dictatorship granted concessions for the exploitation of the natural resources of the country and its public services under quasi-colonial conditions. At the end of Díaz' government, the virtual alienation of the national wealth had reached considerable proportions. By 1910, foreigners owned huge agricultural and cattle-breeding latifundia, as well as practically all the mines; they controlled almost all the oil fields and the financial life of the nation, as well as the railroads and foreign trade. In Lower California, for example, three North American concerns owned seventy-eight per cent of the Territory; the granting of unoccupied lands, mainly to foreigners, covered more than a third of the country. The Mining Code of 1884, upsetting a long tradition, granted the owner of the soil exclusive property over the oil deposits. This provision allowed the great foreign corporations to obtain concessions from the superficiaries by paying nominal rentals and, taking advantage of the ignorance and misery of the indigenous inhabitants, to acquire vast tracts of land on the Gulf Coast at iniquitous prices. But Díaz was even more prodigal with public lands; in 1906 he granted a fifty-year concession to a British citizen, Pearson, for the exploitation rights over all the subsoil of lands under federal jurisdiction in the states of San Luis Potosí,

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Tamaulipas, Veracruz, Tabasco, Chiapas, and Campeche, in exchange for ten per cent of the product, exempting him at the same time from all import and export duties.

A policy of aid to foreign capital, carried to such extremes, can only be followed at the expense of the essential attributes of sovereignty. The power to legislate, the administration of justice, and the possibility of an independent international position become an empty abstraction when conditioned by such a policy. Thus, the provisions of the Mining Code of 1884 violated an age-old tradition, since oil and other subsoil resources belonged at first to the Spanish Crown and then to the Mexican state; and the Pearson contracts violated the Constitution of 1857, since only Congress was empowered to set taxes by means of general provisions. As far as the administration of justice is concerned, it is common knowledge that foreigners enjoyed privileged status over Mexicans in the Porfirista courts, always eager to ingratiate themselves with aliens and, if need be, willing to obey the orders of an Executive determined to favor them. It is no wonder that international claims ebbed during this period, when a docile administration was prepared to satisfy directly the claims of foreigners without stint, and, failing this, to compensate them with new concessions and privileges. It therefore cannot be surprising that this state of affairs became one of the main causes for the Revolution itself.

The stand taken by the government of Porfirio Díaz regarding certain general international problems presents, however, unexpected features. His foreign ministers were not unaware of certain constants in the international policy of Mexico that should guide its attitude in the relations between states. At the three Pan American and two Peace Conferences, Mexico confronted the United States—sometimes with heat—in defense of a number of principles that were a function of her condition as an underdeveloped nation. She proposed or supported the principle of equality of rights between foreigners and nationals; the non-responsibility of the state for damages suffered by foreigners during civil strife or domestic disturbances; the non-recognition of the validity of territorial conquest; the peaceful settlement of disputes; and the unlawfulness of armed intervention as a means of obtaining payment of public debts (anticipating

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thus the Drago Doctrine). Vallarta and Mariscal ably and effectively defended the country against international claims brought at the time—mostly for acts pre-dating the dictatorship—that had to be settled and paid according to the 1868 Convention; and Vallarta developed the doctrine of the denial of justice in terms that are hard to surpass.

The often wise and patriotic behavior of Mexican representatives at international meetings did not succeed, however, in banishing the impression that the government of Díaz adopted a submissive international policy, both as to its dealings with other countries on specific problems and because of its docility towards foreign investors. The experience of this period certainly did not contribute to eradicating the hostile reaction of the Mexican people towards the outside world.

III

Mexico's international conduct varied during the different phases of the Revolution. In order to discover the implication for foreign policy of the Revolution, that phenomenon has to be viewed in all its historic dimensions, from 1910 to, perhaps, 1938. The same constants that gave a certain continuity to Mexico's international policy were present both in the period running from Independence to the end of Díaz' dictatorship, and in that of the Revolution; but at the same time, the international variants, plus the process of transformation, substitution, and juxtaposition of domestic aims, gradually changed the country's international behavior. Few periods are so conducive to an analysis of how far the international policy of a country is conditioned by its domestic aims, and how far, in turn, the possibility of following such a policy is conditioned by external variants.

Although other formulations are possible, the internal aims of the Revolution can be defined, in respect to their international effects and for the purpose of this study, as follows: first, the renewal of political authority; second, agrarian reform; third, the recovery of the country's natural resources; fourth, the labor movement; fifth, the enhancement of national values, primarily cultural ones. This last, rather than an aim or a task, can be understood as a collective state of mind that sometimes was cause and sometimes

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effect of the other aims; but to the extent that the country became aware of the phenomenon of nationalism, that it was at times deliberately stimulated or oriented and that it produced concrete manifestations, it can properly be included among the aims of the Revolution.

These aims emerged at different times; the relative importance attached to one or the other varied during each phase of the Revolution as did the efforts made to achieve them. All of them had international repercussions, although only the second and third—agrarian reform and the nationalization of natural resources—gave rise not only to distinct international attitudes, but, as will be stressed in due course, to specific international concepts whose projections are felt even today to an extent unforseeable then.

The achievement of the purely political aims of the Revolution provoked serious international incidents. The overthrow of Díaz, the presidency of Madero and his fall, the usurpation of Huerta, the Constitutionalist Revolution and the strife between rival factions that followed, are all episodes in the painful and at times disjointed efforts made by the country to ensure a periodic and institutional renewal of power. These events gave rise to a number of international incidents, such as the occupation of Veracruz, Pershing's expedition, the effort to bring together in the United States the representatives of the rival factions in order to put an end to the civil war, the withholding of recognition as a means of exercising pressure, and the claims for damages suffered by foreigners during the Revolution.

Regarding Pershing's punitive expedition and also the occupation of Veracruz, Mexico invoked in its own defense such traditional principles as respect for the territorial integrity of states. Despite the fact that both these American armed interventions could have benefited Carranza—whose approval was taken for granted by Washington—and despite the fact that the government of the United States contended that these were not hostile acts towards the Mexican people, Carranza insisted, in both cases, on unconditional withdrawal, thus strengthening the principle that all occupation of foreign soil—even if idealistically motivated—constitutes a hostile invasion and a violation of sovereignty. The firm and uncompromising stand of Carranza was, perhaps, a prelude

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to the instinctive and determined refusal of the Mexican people to allow the setting up of foreign military bases on Mexican territory, even if such an act served a common cause and had the consent of the Mexican government.

The withdrawal from Veracruz and the matter of good offices in 1915 have a great bearing on the international conduct of Mexico. Carranza revealed an exceptional international awareness when he intuitively anticipated the formulation of an international principle—at least in embryonic form—that would have full meaning and force only with the creation of permanent international organizations.

In both cases, the problem arose of taking part in conferences with Latin American nations and the United States where efforts were—or might be—made to deal with Mexico's domestic situation. In the first question, Argentina, Brazil, and Chile offered to mediate in the conflict that had arisen between the United States and Mexico over the occupation of Veracruz. Huerta sent his delegates to the Niagara Falls Conference, and the United States, a party to the dispute, raised the question of the participation of the Carranza delegates as a way of bringing about an agreement between the two camps. In the second question, the United States and a number of Latin American nations sent a collective invitation to the leaders of the rival factions fighting in Mexico to hold a meeting in the United States in order to pacify the country. The participation of those issuing the invitation was intended to contribute to mediation between the rival factions.

Although the aims of both meetings were unobjectionable, and although the results could have helped Carranza (though his delegates did not attend the second conference, the participating countries recognized his as the *de facto* government of the country), he himself contended that a mere international discussion of the matter, would "most profoundly harm the independence of the Republic and set the precedent of foreign interference in the settlement of its domestic affairs." This was more than invoking the principle of non-intervention, that is, that all states are forbidden to interfere illegally in another's affairs. Carranza was ahead of his time when he held that the "domestic affairs" of a country were beyond the jurisdiction of any—even col-

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lective—international action, *even if it only consisted in examining these matters and not committing a true intervention*, such as the issuance of a peremptory and dictatorial order accompanied by the threat of force. This principle lies at the root of present day international organizations, and its defense guided Mexico's position at the Conference of Caracas in 1954 and during the recent Consultative Meetings of Santiago and San José. Naturally, the protection of what the Charter of the United Nations now calls "matters essentially within the domestic jurisdiction of States" against international action, could not have been presented as a principle at that time, but the essential idea that underlies it inspired Carranza's stand in both cases.

IV

The two most important international principles of the Revolution were not stated as such, nor even conceived of as principles of world-wide validity to be invoked in defense of Mexico; yet both are clearly implicit in Article 27 of the Constitution and are the international projection of the two main goals of the Revolution; namely, the recovery of the country's natural resources and agrarian reform.

The Mining Code of 1884, breaking, as we have seen, with the country's tradition, granted proprietary rights over oil and other mineral subsoil resources to the owner of the land above them. The 1917 Constitution radically amended this legal rule, stating in Article 27 that "In the Nation is vested the *direct* ownership . . . of mineral deposits . . . petroleum and all solid, liquid and gaseous hydrocarbons . . . etc." "Direct ownership" differs in Mexican constitutional law from "eminent ownership," which is exercised by the nation over all land, waters, and things within its boundaries, including those constituting private property.

In other words, the Constitution reclaimed for the nation some of its most valuable natural resources, which by previous laws had been recognized as private property of individuals, the majority of whom were foreigners. The recovery by the nation of the *resource itself (as opposed to the installations required for its extraction)*, does not call for compensation, since it is not an expropriation of things that,

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according to the Constitution, can be privately owned, but rather the *reclaiming* of resources that, by their very nature, are of the direct domain of the nation, and, as such, are inalienable and imprescriptible. Traditional international law recognized only the right of states to expropriate foreign-owned assets, for reasons of public order and subject to the payment of compensation which, in the view of the industrialized nations, should be prompt, adequate, and effective.

The contention of the Mexican Constitution, perhaps novel in some of its aspects, has, with time, gained ground. The underdeveloped countries, convinced that their economic progress must rest on their own use of their own resources, have struggled to obtain international recognition of the general right of all states to reclaim—not merely to expropriate—domain over their natural resources and exercise permanent sovereignty over them. It is only lately, in the United Nations, that this conception has been strengthened and is beginning to crystallize. Due to the concerted efforts of underdeveloped and socialist countries, the Draft Covenant of Human Rights prepared by the Commission of Human Rights included the following principle: "The right of peoples to self-determination shall also include permanent sovereignty over their natural wealth and resources. In no case may a people be deprived of its own means of subsistence on the grounds of any rights that may be claimed by other States."

The General Assembly of the United Nations has still not pronounced itself on this provision of the Draft Covenant, and the highly industrialized countries with investments in the underdeveloped states are opposed to the adoption of such a provision. But even if the efforts to limit its practical application were to be successful, the mere proclamation of the principle as such would contribute to facilitating and speeding up the process of recovery of natural resources undertaken, or to be initiated, by underdeveloped countries.

By completely *reincorporating* in the nation's heritage the resources of its subsoil, without the intermediate step of expropriating them for reasons of public order and subject to compensation for assets which, according to earlier laws, be-

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longed to private persons, the 1917 Constitution anticipated by many years the statement of this novel international stand.

V

Mexico was one of the first countries to undertake an agrarian reform of such wide-scale proportions as considerably to affect important foreign interests. The international justification of the right of all states to carry out an agrarian reform—based on such principles as the subjection of the foreigner to the laws of the land of his residence, the principle of equality of treatment for foreigners and nationals, and, in the last resort, the right of preservation of the state—is no longer challenged. On the other hand, the different ways in which compensation has been made in practice, the awards of international tribunals on the matter, and the opinions of publicists are far from uniform, varying from the suppression of private rural property without indemnity (decree of the Soviet Government of 26 October 1917), to the cash purchase of lands at market prices.

The North American viewpoint is that expropriation is internationally tenable only when accompanied by prompt, adequate, and effective indemnity. The contention advanced by the Mexican Revolution, inherent in Article 27 of the Constitution and its laws, is that expropriation can be carried out subject to compensation, in the amount and within time limits and conditions of payment that will not endanger the economic stability of the country and allow the agrarian reform to proceed rapidly and totally.

The constitutions of a number of countries reflect a similar standpoint, especially since the First World War. Lately, due to the Cuban agrarian reform, much discussion has taken place regarding the conditions for the international validity of expropriation of the rural holdings of foreigners, and the Mexican stand is gaining adherents. Probably, when a propitious moment arrives for the international codification of these matters—and the underdeveloped countries must seek that moment—the principle to be established should recognize to every state the right to modify foreign interests when organizing the legal regime of property in the way that best serves the purposes of the country, and *that compensa-*

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tion must be proportionate to the economic capacity of the country to pay and subject to such conditions and terms as do not impair its economic and social development.

The Mexican agrarian reform preceded these new trends in the development of international law. The Constitution of 1917, naturally, did not formulate an international principle, but the provisions of Article 27 and its laws and regulations clearly highlight the meaning of this principle that is now gaining wide acceptance among underdeveloped countries.

VI

The difficult domestic situation a few years later, added to North American pressure expressed in the non-recognition of the Government of Obregón, forced Mexico to postpone in the early 1920's the achievement of two essential aims of the Revolution: agrarian reform and the reclaiming of the oil deposits by the State.

The establishment of international commissions to settle claims for damages caused to foreigners is not, of course, in itself objectionable. But the principles agreed to in the Bucareli settlements of 1923 (the two conventions and the extra-official pact), according to which the rights of North Americans and the obligations of the Mexican state were to be determined, not only bespeak a relinquishment of the international tenets of the Revolution (implicit in Article 27 of the Constitution), but also a waiving of the right to apply traditional principles of international law that favored Mexico.

Regarding oil, the Bucareli treaties and the laws that followed made nugatory the constitutional provision reincorporating that resource in the nation's patrimony, since Mexico forbore to apply it to American citizens who had acquired private rights over the oil in accordance with laws pre-dating the promulgation of the Constitution. The principles invoked, those of non-retroactivity and of acquired rights, were not apposite, since this was not a case of affecting pre-existing juridical acts or situations created pursuant to previous laws. What was at stake was the right of all states to modify the existing legal situation, that is, to legislate for the future. No state is forced to grant its inhabi-

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tants—foreigners or nationals—enjoyment in perpetuity of rights that at a certain time are accorded by its legislation. If the United States had followed during the last century the thesis of the Bucareli treaties, it would not have been empowered to liberate the slaves, since their owners could have invoked the principle of "acquired rights" that they possessed in pursuance to previous legislation. Mexico's acceptance of these provisions was devoid of any juridical basis.

Concerning agrarian reform, Mexico yielded the right to indemnify American citizens on time by issuing bonds—thus giving a privileged position *vis-à-vis the* Mexicans—except in the single case of lands expropriated in order to convert them into communal lands ("ejidos") and which were less than 1,755 hectares (4,260 acres). In all other cases—including especially the expropriation of large latifundia—the compensation was to be in cash. The acceptance of this arrangement meant at the time the partial discontinuance of the agrarian reform movement.

Regarding the criteria for the determination of responsibility in damages suffered by American citizens, the extreme was reached of renouncing the application of well-known and accepted principles of international law. Thus, Mexico first of all accepted the *ex gratia* responsibility for acts committed by revolutionary forces, although the negligence of the state was unproven, because "Mexico feels morally bound" to do so, as Article 2 of the Special Convention states, despite the fact that the international rule in force at the time provided the exact opposite; that is, the non-responsibility of states for such damages unless negligence is proven.

Secondly, Mexico renounced the application of another clear and well-known international rule, according to which the foreigner must exhaust all domestic remedies before his case can be submitted to an international body. Finally, Mexico went along with the strange institution of "allotment," according to which it admitted responsibility for damages suffered by a moral entity *of Mexican nationality,* in which a juridical interest was held by an American subject, even if only as a creditor of it.

It is difficult to assess how far, at that time, the Bucareli agreements inflicted a wound to the national conscience. Their provisions may well not have seemed as serious then

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as now, when we can judge them in the light of the historical hindsight of the revolutionary process. But the Bucareli treaties put a complete stop to the Revolution. The fact is that the country gave up its aim to reclaim an essential part of the patrimony of the nation and to achieve a more just distribution of the land. Mexico agreed to exempt American citizens from the most important provisions of the Constitution, and allowed the establishment—in their benefit—of a legal regime of exception and privilege. Above all, however, the Bucareli treaties were another link in the endless and humiliating chain of international claims. To give an idea of the unjust and exorbitant nature of the American claims, suffice it to recall the results. Of the total amount claimed according to the 1868 convention, Mexico had to pay 0.6 per cent (discounting the amount of two fraudulent claims that the American government later returned). According to the global agreement arrived at in 1934, for the settlement of claims for damages to American citizens during the Revolution, Mexico paid 2.64 per cent of the total claimed. Despite the slight economic importance that these cases represented for the claimant countries, they served as one of the pretexts for the wars of 1836 and 1847 with the United States; they provoked a war with France in 1837; they gave rise to the lengthy French intervention that began in 1862; and they forced a slow-down in the work of the Revolution. No wonder it has been said that the history of Mexico is the history of these international claims.

VII

A favorable international climate, the Good Neighbor Policy, linked to the strengthening of the domestic situation, and, especially, the establishment of a government enjoying solid popular support and determined to fulfill the revolutionary aims, all united in the 1930's in adding luster to Mexico's international position. For the first time in its history, its foreign policy had effects on the international stage, and the country gained well-earned prestige when it firmly and independently defended all the just causes being debated at international meetings.

Mexico joined the League of Nations in 1931 repudiating again, on that occasion, the Monroe Doctrine, as it was incor-

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porated in Article 21 of the Covenant. At the Conferences of Montevideo (1933) and Buenos Aires (1936), Mexico's efforts were decisive in obtaining inter-American acceptance of the principle of non-intervention. During that period, its agents effectively defended Mexico's traditional position and interests in the Mixed Claims Commission, despite the hamstringing by the Bucareli treaties. Their repeated successes gave rise to the global agreement signed with the United States, which had the favorable results already mentioned. In the League of Nations, Mexico supported China in the Manchukuo case; vigorously upheld Abyssinia at the time of the Italian invasion; protested the Austrian *Anschluss* and the occupation of the Sudetenland; and, in particular, most strongly supported the cause of Spain, bitterly criticising the Non-Intervention Committee and contending, in contrast to the Western powers' hesitancy, that the Covenant of the League did not allow for neutrality between victim and aggressor. The generous welcome that the country gave thousands of Spanish refugees also contributed to enhancement of the nation's international reputation.

The oil expropriation in 1938 had important international repercussions. Domestically it implied, at last, the fulfillment of one of the important aims of the Revolution; it reestablished the constitutional order—inoperative, in this aspect, for American citizens—and laid the foundations for the erection of a national industry that was, in time, to become the country's most important.

But with the passage of years the nationalization has also had a salutary and widespread effect on the foreign policy of the country. As the expropriation became consolidated internationally, despite strong external pressures to force the country to return the oil firms, Mexico acquired confidence in her capacity to act internationally and to overcome her suspicion regarding the "outside world." Perhaps for the first time since the fall of the Empire of Maximilian, the country was able to withstand foreign pressure sufficiently to achieve an important national goal that seriously affected the interests of the great powers. The new confidence born of the successful nationalization contributed to forming Mexico's viewpoint of the role of foreign investments, that they

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are primarily a factor that must be added to the country's own efforts. Doubtless, too, this confidence has strengthened Mexico's stand in many a case of negotiating economic questions with the United States. Not without reason, the oil nationalization is considered in Mexico as a symbol of the economic independence of the country.

VIII

At the end of the war, the world lived through a brief period of hope. Trust was placed in the promises of the Atlantic Charter, and it was believed that the creation of the new United Nations would contribute to disarmament and peace. Mexico did not stand aside from this belief. During the San Francisco Conference that was to draw up the Charter of the new organization, it submitted a document entitled "Views of the Foreign Ministry of Mexico on the Dumbarton Oaks Proposals," which contained a number of well-integrated proposals, stamped by marked internationalism. The powers of the General Assembly were to be expanded, as this would enhance the role of the smaller nations; the veto in the Security Council was virtually to disappear; the protection of human rights would be guaranteed by the Charter; the rights and duties of states would be defined in a binding annex to the Charter; the automatic inclusion of international law in the legislation of member states was provided for. Finally, and as a corollary to these proposals, it was submitted that the Charter should eliminate the principle of domestic jurisdiction as a limitation to the organization's action, if any matter—even though internal—could constitute or create "a situation likely to provoke international friction."

However, despite a few contrary signs in the public opinion of the period, the San Francisco Conference saw a powerful recrudescence of nationalism with a concomitant revival of state sovereignty. The principle great powers refused to endow the organization with sufficient power to act without let or hindrance, by failing to renounce certain aspects of their sovereignty, and a number of the Mexican proposals were rejected. Soon enough the reality of the cold war and the tensions and dangers generated in the American conti-

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nent forced Mexico to return to its original traditional position. The unconditional application of the sister principles of non-intervention and respect for the domestic jurisdiction of states on the part of international organizations have become the cornerstone of Mexican foreign policy in the post-war period.

IX

Fifty years after the Revolution, what is the international outlook of the country? What are the international principles, aims, tenets, and attitudes most in keeping with the present situation of Mexico?

If we consider the problem from the vantage point of hindsight, we will realize that some of the domestic aims of the Revolution have been duly achieved; the political stability of the country and the periodic and institutional renewal of its government are assured. Some have been partially fulfilled, such as the agrarian reform and the reclaiming of the natural resources of the country. What is still to be done in these fields will not give rise to the same international problems as those raised forty years ago, among other reasons, because of the greater economic capacity of the country and because important international precedents have been set—in some cases, with Mexico's assistance. Nationalism itself, as an end, presents a very different picture in a country that is socially, economically, and politically much more integrated than it was fifty years ago. The consistent firmness of Mexico's international policy since the 1930's is, in itself, a factor that will have its bearing on the future conduct of the country. Mexico has become accustomed to acting with a certain confidence, aplomb, and serenity, which were inconceivable when its immediate past was torn with memories of interventions, submission, and humiliating defeats. That attitude and the international prestige that Mexico has won have resulted in placing its relations, especially with the United States, on a footing of greater respect and equality. Thus, the effect of an earlier stand has become a new premise for the future foreign policy of Mexico.

As is very often the case in such historical phenomena, the very revolutionary process has given rise to new aims and tasks. Industrialization, whose development could not be

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imagined without the social foundations laid by the Revolution, is today one of the first aspirations of the nation. In order to succeed, Mexico must obtain considerable technical and financial resources, but this, in turn, presupposes a new international viewpoint, in keeping with the circumstances obtaining and with the complex problems of international cooperation.

Finally, the new line-up of power in the world will also exert a decisive influence on future foreign policy. The outstanding characteristic of the postwar period is the bipolarity of world power. Although this trend is becoming even more accentuated in the military field, the almost universal conviction that a new world war can be avoided—since it would be suicidal for mankind—has, paradoxically, allowed the emergence on the political level of relatively independent positions. The imminent danger of war is no longer a valid reason for forcing the small powers into docility. The nuclear balance has indirectly and gradually eroded the borders of the spheres of influence.

Politically—and economically—it would be mistaken to assert that there are only two power blocs. The singleness of purpose of the underdeveloped countries and their overwhelming desire to raise the standard of living of their people at any cost are in themselves factors that have radically redrawn the picture of international affairs. The almost exclusively bilateral nature of the relations of the weak countries with stronger nations is no longer as absolute as it was fifty years ago. The existence of international organizations makes possible the relatively easy marshalling of world public opinion on the side of a weak country. At least in the western world, the small nation is not totally at the mercy of a powerful protector, as it was in the past. It is interesting to note how many of the conflicts that have been brought before the United Nations, although they reflect the antagonism of the two great blocs, very often arise around the relations between a great power and a small nation of the same "camp."

A country like Mexico has at its disposal today a much wider choice of effective political resources and instruments of defense than at the time of the Revolution. Its traditional concept of the "outside world" as a source of threats

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and irremediable ills, from which no good could be expected, has had to be brought up to date to meet the new international situation and the new needs of the country.

X

Mexico's accelerated economic and social development requires that she participate actively in all aspects of international life. The industrialization and modernization of agriculture cannot be completed under present circumstances without an advanced technology which the country does not as yet possess. In order to obtain the financial resources that development requires, Mexico will have to diversify and increase the volume of its foreign trade, refine its foreign private investment policies and, although the reason may not be obvious at first sight, increase its participation in the international political bodies. Postwar experience eloquently confirms the fact that the international standing of a country, the independence of its attitudes, and the consistency of its position, do more to attract to it the international financial means it requires, under favorable conditions, than any obsequiousness. It is only through its daily action, its perseverance, that the international prestige of a country can be strengthened. In a word, because of the level it has now reached in its internal evolution, it has become imperative for Mexico to deliberately assume a more active role in the international field.

The postwar attitude of Mexico toward the outside world is still, however, one of mistrust and partial disinterest, and its foreign policy is mostly defensive and anti-interventionist. Until the inception of the present administration, when the international outlook of the country began gradually to change, Mexico's participation in the discussion of world political and economic problems has been, generally speaking, reserved, cautious, and mainly defensive, excepting a few cases like the Conferences of San Francisco (1945) and Bogotá (1948), which gave birth to new international organizations, when Mexico presented important long-range proposals.

In the economic field, the most promising moves, both to increase the flow of public resources for the development of

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Latin American nations and to create a free trade zone for their economic integration, did not originate in Mexico, but in South America. Despite an obvious and urgent need, a policy consistent with the expansion and diversification of our foreign trade was not applied for many years. Some facets of our immigration policy are also not suited for a country that needs foreign experts; for a number of years during the 1950's, naturalization proceedings came almost to a standstill, and Mexican nationality was granted in but few cases.

In the political field, Mexico's representatives have often firmly and ably upheld its anti-interventionist stand and the principles that traditionally underlay its foreign policy. But in general international political questions—where the interests of Mexico were not directly affected—Mexico's contribution was rather limited. Aside from a few brilliant initiatives in the United Nations, that were more a reflection of its main spokesman's personality than a result of deliberate governmental policy, Mexico placed itself at a cautious distance from world problems. Since 1946, it has not participated in the work of the Security Council of the United Nations; on the other hand, countries like Ecuador, Cuba, Brazil, Argentina, and Colombia have been elected twice and even three times for periods of two years each. This deliberate policy of withdrawal was due to a desire not to become involved in the thorny questions that the Council examines and that do not touch Mexico directly. The need to take decisions on such delicate problems carries with it certain risks and can give rise to domestic and international difficulties; but it is not less true that a country pursuing an independent policy—without overlooking or jeopardizing its clear position within the western camp—could have done constructive work by sponsoring conciliatory and just proposals. Few places and tasks are as propitious for the establishment or strengthening of the international prestige of a country.

Nor can much be made of Mexican activity in the bilateral field during this period. Until very recently, the successive administrations made no great effort to assert a true political and cultural Mexican presence in Latin America or even in Central America, to say nothing of Mexican neglect

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in seeking close political collaboration with Latin American countries of similar political ideology and government. Relations with the newly emerged African and Asian states have been very slight, despite their growing importance in the international arena and the fact that—at least in some aspects—their aspirations and problems are similar to those of Mexico and could lead to analogous stands on some political matters and on certain international economic policies. Finally, it is of interest to observe that, barring a few cases of exceptionally important embassies, Mexico's usual diplomatic missions are made up of two—and at the most three—officials. The percentage of the budget earmarked for international relations is less than 1.2 per cent, and if we discount contributions to international organizations, Mexico allocates less than 0.9 per cent of the budget to the functioning of the Ministry of Foreign Affairs and the Foreign Service. This is a low percentage even for a small country.

One of the fields that has been most seriously affected by this dearth of foreign contacts is that of technology, especially in the public sector. It is no rare occurrence that techniques, methods, and formulas known for years in countries no more advanced than Mexico are inexplicably unused in Mexico, or that their application is delayed for a long time. This is very often due not to the ignorance of Mexican scientists or technicians, but to politico-bureaucratic decisions taken by officials who misunderstand nationalism, and, especially, to a tendency to exaggerate the peculiar character of Mexican problems. This lamentable trend is rather general in the administration, particularly in those departments that traditionally maintain few outside contacts.

The development of nuclear energy in Mexico illustrates the degree to which the lack of international aid can slow down the achievement of an important domestic program. Because of the high cost of scientific and technological investigation and the considerable progress made by other countries in this field, it is almost inconceivable for a country like Mexico to undertake a serious program of nuclear development without vast international cooperation. To do otherwise would be to condemn the country to greater backwardness and to the squandering of great resources. Yet Mexico has not even begun to set afoot the formulation of a plan to

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obtain considerable international assistance in this field. The damage was quickly seen. While Argentina, Brazil, and Venezuela have experimental reactors in operation, Mexico has limited itself to extracting uranium-bearing minerals and sending a few—very few—scholarship-winners abroad. It has not even begun the drawing up of a national inventory of minerals with nuclear applicability. The use of radio-isotopes in Mexican industry and agriculture is hardly in its infancy, although these techniques have been in use in other countries for years. It is not difficult to come to the conclusion that excessive caution in the use of international assistance—politically as well as scientifically—has had negative effects in the development of these most promising activities. Although in the past the assistance available could be only of a bilateral nature and was accompanied by difficult—though not insurmountable—political problems, the creation of the International Atomic Energy Agency has made it easier to obtain technical resources under acceptable conditions.

XI

The present administration has intensified the country's international activity. The visits of President Lopez Mateos to the United States and Canada, as well as to a number of Latin American countries, point to a new awareness of the importance of international relations in the life of Mexico. The visits to the Latin American countries—the first in history by a Mexican President—give proof, to a certain extent, of the existence of a new aim in foreign policy, the strengthening of political and economic ties with Latin America. The recent visits to Europe and Asia of parliamentary missions also highlight the new importance that the country attributes to international affairs. The now frequent trade missions to many countries show at last a serious effort to achieve diversification of foreign trade. The new and basic aim of Mexican international policy—to speed up the economic development of the country by the use of vast international assistance—is also beginning to take shape. Financial and technical cooperation of European countries in the diversification and expansion of the petroleum industry and

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in the construction of the large Infiernillo Dam, for instance, is a promising sign of these new tendencies.

The achievement of this end, which daily becomes more important due to the present level of industrial development, does not call for a revision of the basic aims of Mexican foreign policy, but for the introduction of new modalities and the intensification of some activities. Thus, it might be desirable to draw up a national program to send great numbers of trainees in selected fields to foreign countries, perhaps even assuming all the cost. Mexico must increase its participation both in the Expanded Program of Technical Assistance of the United Nations and in the Organization's Special Fund. It must strengthen its efforts—jointly with other states having similar interests—in order to increase the availability of resources from international credit institutions and to liberalize their conditions. In exceptional circumstances, it may even have to overcome its natural dislike for all forms of international interference and surveillance. Thus, for example, without its being necessarily considered as a form of interference, the Statute of the International Atomic Energy Agency—to which Mexico subscribed—contemplates international safeguards for the Agency to supply certain types of assistance.

Another basic objective of present foreign policy is to establish closer political, economic, and cultural ties with Latin America. Generally speaking, Mexico's Latin American policy has developed within the official framework of Pan-Americanism, although Latin America is Mexico's true and natural sphere. Pan-Americanism has contributed to facilitating relations between the countries of Latin America and the United States, and between Latin America as whole and that country, at least insofar as those relations have become institutionalized and the unilateral action of the United States has been toned down. But Pan-Americanism has not proved to be the best institutional framework for the creation of the indispensable political and economic integration of the countries of Latin America themselves. As a politico-juridical instrument, it does not reflect the community of problems, needs, and aspirations of Latin American peoples on the political, economic, and cultural levels. Latin America's common interests, primarily its economic

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ones, are very often at variance with those of the United States, although the economy of Latin America and that of the United States may be complementary.

Reality is beginning to impose itself on a somewhat inapt and, to a certain extent, artificial structure. The Latin American Free Trade Association, set up in 1960 outside the Organization of American States, reflects the existence of economic interests common to and exclusively of the countries of Latin America. In time it may become the first step toward a Latin American Economic Community. For the time being, the obstacles in the way of greater political integration of Latin American countries are very great; but there is at least a glimpse of a trend to examine, purely within the context of Latin America, certain common problems, such as, for example, disarmament. As President Lopez Mateos stressed in his speech to the Peruvian Congress—before him, Presidents Alessandri of Chile and Prado of Peru made the same point—this problem takes on certain peculiarities in Latin America, different from its universal features, which warrant specific Latin American treatment. The smaller percentage of votes that these countries command in the United Nations at present (it was almost 40 per cent of the membership in 1946, as compared with 20 per cent at the end of the General Assembly Session of 1960), may perhaps in time encourage closer political collaboration among Latin American nations in order to increase their capacity to influence the decisions of the Organization.

The practical measures that Mexico could adopt at present to contribute to Latin American unity are few, but not devoid of importance. It should vigorously support the work and development of the free trade zone now in operation, even if the immediate benefits are not apparent. It should also take full advantage of any opportunity to examine common political problems from the Latin American standpoint, within or without the international organizations. Furthermore, Mexico should increase its diplomatic activities in each of the Latin American countries, make greater efforts to widen cultural exchanges with them, and seek the coordination of its policies, or even, when appropriate, a closer political collaboration with the liberal, democratic, and like-minded countries in the region.

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XII

Another factor that may have a decisive bearing on Mexican foreign policy is the future conduct of the United States, not only concerning Mexico, but also toward all the other countries of Latin America. Lately, bilateral relations with the United States have been good, and it is to be hoped and presumed that they will continue to improve. But anything that may occur between the United States and the other countries of Latin America cannot, in future, be alien to us. Latin American problems have inevitably become essential elements in Mexican foreign affairs.

Recent events in Cuba point to the fact that the day is not far distant when profound social transformations will take place in various countries of the hemisphere, and they will, naturally, considerably affect North American interests. The United States' position *vis-à-vis* those revolutions will decisively color Mexican relations with it. To a certain extent, these are problems outside Mexican control; the attitude of the United States will depend to a certain extent on the world situation and on domestic factors in the country itself. However, the constructive influence that can be wielded by a country like Mexico, that went through similar experiences in the past, might have a certain bearing on the solutions.

It is difficult to forecast what United States policy will be toward Latin America. Since the days of President Truman and until the inception of the present administration, its Latin American policy has been markedly negative and conservative. Its sole aims seemed to be to protect North American investments and obtain the submissive alignment of the countries in the anti-communist camp. In order to insure both ends, the United States did not hesitate to support hated dictatorships. What was worse, the United States, to all intents and purposes, supported precisely those extremely retrograde Latin American groups that opposed any change in societies that were often badly in need of it. The United States showed for a long time, for example, an utter lack of understanding of the question of economic development, repeating *ad nauseam* that the magic formula was to "offer a propitious climate" to North American private investment.

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One wondered at times if the United States were not more eagerly seeking the servile obedience of their natural allies than their strength and prosperity.

Lately, the United States has withdrawn support from Latin American dictators. This highly desirable and oft-expected measure does not, however, get to the root of the problem. The basic problem today is the United States' stand regarding the need both to build the economy on solid national foundations and radically to modify the social structure of many Latin American countries. An important, if not the only decisive, factor for this end is the granting of intergovernmental loans on favorable terms, and, concurrently, acceptance of the inevitable and essential role of state intervention in the economic life of Latin American countries. Private investments also will play an important part, but new formulas will have to be devised in order to avoid the creation of an exaggerated dependence on these investments; this was the case in Cuba, where the economy was unbalanced, vitiating the social life of the country and inflaming anti-American feelings. But most important is the tolerance and sympathy—in a word, the true support—that the United States is prepared to give the nationalistic social revolutions that will probably take place in Latin America, as they did in 1910 in Mexico and in the initial phase of Cuba's revolution in 1959.

Recently the Alliance for Progress has been launched. This important and far-reaching program will no doubt have a great impact in the economic development of Latin America through the capital assistance that will be made available. But, potentially, the political and social effects of the Alliance for Progress could be even more important.

As is well known, the pre-conditions envisaged for assistance under the program are tax and agrarian reform; and rightly so, if the help is to be effective. But the social groups and classes which exert political power in Latin America, and which benefit from a frequently archaic and quasi-feudal structure of society, will not by themselves perform the radical changes which are needed, for these would mean the end of their privileged position. A significant degree of social justice cannot be promoted rapidly in Latin America, under present circumstances, without drastic changes in the distri-

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bution of wealth and, therefore, also of political power; and these changes will not be achieved without a struggle, because they will be at the expense of the vested interests of a privileged and powerful minority.

That is why revolutionary ferment is, or will soon be, the strongest force in Latin America. To succeed in the long run, the Alliance for Progress should not be conceived as a substitute for, but rather as a complement to revolution, using this word in its broadest sense, to mean either violent or peaceful, but in any case, swift and radical change where present conditions are intolerable.

Of course, the main stimulus to achieve the required far-reaching changes will have to be provided by the Latin American peoples themselves, with their own means, through normal political action, where possible, or through revolutionary action. But the reaction of the United States to these efforts could be decisive. Within the frame of the Alliance for Progress or through parallel action, the United States could contribute greatly, without actual intervention, to the success of these revolutionary trends, which, at least initially, will probably seek only purely national goals.

Among other things, the United States should not oppose, but should rather encourage, significant agrarian reform, whether or not it affects the interests of its citizens, even so far as to contribute to its financing. It should tolerate the nationalization of certain basic natural resources and public services at present owned by its nationals, agreeing to compensation under terms and conditions that will not disjoint the economic life of the country. It should undertake a program of vast public loans that will allow governments to exploit natural resources, provide adequately for essential public services, and strengthen their economies, even if this departs somewhat from the American conception of free enterprise and means much more governmental intervention in the economies of these countries than the United States is willing to tolerate at home. It should encourage and assist the economic integration of Latin America. It should neither hinder nor corrupt workers' movements; and, above all, it should cease to give moral and material aid to reactionary forces, causes, and political parties. Instead, it should establish closer and meaningful contacts with the intellectual

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circles of these countries, which generally represent leftist tendencies, as well as with other progressive groups. To sum up, the United States should envisage and encourage in Latin America what the Italians graphically call, though in a different context, an *apertura a sinistra.*

It may be argued that such a program for the United States would be paradoxical, and its Latin American policy of the last fifteen years would bear out such an assertion. More than once, however, the United States has given proof of its ability to adapt to changed circumstances. The reversal of its policy toward India, the United Arab Republic, and other countries—a policy which had been based on the idea that neutrality was immoral and that a neutral state was necessarily a member of the "other camp"—and the improvement which has been noted in the relations with those countries since that attitude was discarded, are a good example of that power of adaptation. The change of attitude *vis-à-vis* Latin America will have to be no less significant, if serious dangers are to be avoided.

A North American policy that lacks understanding of Latin America would have grave domestic and international consequences for Mexico and influence its foreign policy in a manner which is now difficult to foresee. As I have said earlier, these developments are outside Mexican control, though Mexico's position could have some importance in future relations between the United States and Latin America. The Mexican Revolution, seen as an international experience, places Mexico in an ideal situation to understand, explain, and bring together differing views. But the mediating function naturally presupposes a high moral authority in the one fulfilling it; and the best, if not the only, way of maintaining Mexico's international prestige and authority is to defend firmly and perseveringly the basic principles underlying her foreign policy, placing them above circumstantial considerations of temporary value.

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AMERICAN DIPLOMATIC TACTICS AND NEUTRALISM *

AN authoritative study of recent American foreign policy has concluded that the rise of "uncommitted" or "neutralist" countries "may some day rank as the key international development of the years around 1961." [1] Neutralism commanded global attention following the Bandung Conference of Afro-Asian States in 1955. Seven years later, its advocates claimed thirty governments, representing nearly one billion people or one third of the human race, as adherents of the neutralist philosophy.[2] This article presents an analysis of American diplomatic responses to that increasingly influential movement.

At the outset any such analysis must postulate a definition of "neutralism" which reflects some conception of its dominant positive and negative elements. A thorough treatment of the meaning of the concept, together with an evaluation of its many subtle and more controversial aspects, requires more space than is available here.[3] Nor is it possible to evaluate critically the numerous schemes offered for classifying the diverse pattern of neutralist diplomatic conduct,

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1 Richard P. Stebbins (ed.), *The United States in World Affairs: 1961* (New York, 1962), 4.

2 *Egyptian Gazette,* July 23, 1961; *The New York Times,* September 10, 1961.

3 The following provide an introduction to one or more aspects of neutralist thought: "Arab Positive Neutrality," *The Arab World,* III (1957), 10–12; "Syria and the United States," *ibid.,* III (1957), 2–4; Sir Giles Squire, "The Outlook for Afghanistan," *Eastern World,* IV (1950), 8–9; Kwame Nkrumah, "African Prospect," *Foreign Affairs,* XXXVII (1958), 45–54; "Morocco's National Character and Policy Outlined," *News of Morocco* (Embassy of Morocco in the United States), III (1960), 1–3; V. M. Reddi, "A Study of Cambodian Neutralism," *International Studies,* II (1960), 190–205; Surveyor, "Neutralists at Play," *The Times of India,* June 12, 1961; Urmila Phadnis, "Non-Alignment as a Factor in Ceylon's Foreign Policy," *International Studies,* III (1962), 425–442; Dr. Ales Bebler, "Role of the Non-Bloc Countries," *Review of International Affairs* (Belgrade), IX (January 1, 1958), 1–2; and *Report on Indonesia,* XI (1962), 4–9.

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in order to evolve a typology of the movement.[4] Our conception of neutralism rests upon recognition of three basic propositions. First, any definition offered will perhaps fail to account adequately for the obvious differences existing in the national policy goals of neutralist states—as illustrated by the fact that both Israel and Egypt espouse "neutralism," while their policies toward each other are obviously antithetical, or the fact that marked differences characterize the "neutralism" of African states toward participation in regional economic groupings on the African scene.

Second, the problem of definition is hampered by the near impossibility of eliminating Western value judgments which, consciously or unconsciously, shape assessments of the diplomatic behavior that may legitimately qualify as "neutralism." Official and unofficial sources within the United States, for instance, have routinely referred (as during the Belgrade Conference of Non-Aligned States in September 1961) to "so-called neutralism" in describing behavior believed inimical to American diplomatic interests. This tendency has been noted and widely deplored throughout the neutralist world as an attempt by the United States to discredit the movement and to impose criteria by which its proponents ought to be judged.[5] In our analysis, therefore, it is left for neu-

[4] Great diversity characterizes attempts to classify neutralist thought and behavior. The following provide a sampling of systems offered: Hans J. Morgenthau, "Critical Look at the New Neutralism," *The New York Times Magazine,* August 27, 1961, 25, 76–77. Morgenthau conceives of four types of neutralism, entailing (1) escapism pure and simple; (2) "political noncommitment" in the cold war; (3) "moral indifference" toward pressing global issues; and (4) "surreptitious alignment with the Soviet bloc." His classification illustrates the difficulty of excluding Western value judgments. *The New York Times* employs a simple threefold division of countries in the world: allied with the West, allied with the communist bloc, and "nonaligned." This classification includes countries like Spain and South Vietnam as "nonaligned"—designations which many neutralist countries themselves would not accept. See *The New York Times,* September 10, 1961. Other schemes divide neutralist countries according to the nature of their alignments with the two cold war power blocs and with each other. See "Can Neutrals Help?" *The Economist,* CC (August 12, 1961), 604–06. Still other accounts classify neutralists according to the *political* institutions and philosophies represented in the movement. See Hella Pick, "From Neutralism to Non-Alignment," *The Spectator,* No. 6950 (September 8, 1961), 310. A system employed by an Indian commentator conceives of "right-neutralists," "left-neutralists," and "middle-of-the-road-neutralists," *The Times of India,* May 20, 1961.

[5] See *Egyptian Mail,* November 18, 1961; *Egyptian Gazette,* March 22, 1961;

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tralists themselves to expound their own diplomatic philosophy. Third, any definition of neutralism necessarily involves arbitrary judgments in dealing with closely related synonyms (like "neutrality," "non-alignment," or "non-involvement") and in delineating borderline cases. Our treatment substantially accords with neutralist usage in viewing "neutralism" and "non-alignment" as equivalent terms; conversely, terms like "neutrality" and "non-involvement" and "isolationism" suggest connotations rejected by proponents of the neutralist cause.[6] Moreover, our treatment regards the geographical locus of non-alignment as the Afro-Asian-Arab world. Except for Yugoslavia, whose government has forged increasingly close ties with countries in this zone, we shall treat the neutralism or neutrality of such western European countries as Austria, Sweden, Finland, and Switzerland as exceptional and, in most important respects, distinctly untypical of the neutralism which has become a global movement.[7]

Hindustan Times (Overseas edition), June 19, 1952; *Asian Recorder,* VII (October 29–November 4, 1961), 4240; and M. Markovic, "Attitude of the Blocs: The Belgrade Conference and the World Press," *Review of International Affairs* (Belgrade), XII (October 20, 1961), 9–10.

[6] A typical view was expressed by the Indian Ambassador to the United States, Mr. M. C. Chagla, on December 15, 1960: "It is a total misapprehension to describe India's foreign policy as a neutral policy. To me, neutralism is an expression of a bad odor; it means a person who sits on the fence and who cannot decide between right and wrong. India is certainly not neutral, and her policy of non-alignment is anything but a neutral policy." *India News,* VI (January 1, 1961), 1. Nasser's view is that "neutrality is an expression used only in time of war." *Egyptian Mail,* August 26, 1961. Similarly, terms like "isolationism" and "non-involvement"—which suggest indifference toward global issues—are also rejected. As explained by Nkrumah: "This policy of non-alignment we have interpreted to imply that the Government would act as it sees best on any issue in the light of the country's obligations to the United Nations' Charter, our position in relation to the African continent and the Commonwealth, our adherence to the principles enunciated at the Bandung and the Accra Conferences and our determination to safeguard our independence and sovereignty." *Ghana Today* (Accra), September 17, 1958, as cited in *Africa Digest,* VI (1958), 116.

[7] Several considerations dictate exclusion of western European neutralism from our discussion. It is clear that in the cases of Austria, Sweden, and Finland overriding strategic and military factors support neutralism; in the cases of Austria and Finland, treaty obligations require a neutralist position. But in no instance could it be said that these countries are "ideologically" non-aligned. Their cultural and political traditions are thoroughly Western. Within recent history, Switzerland's position has been one of "neutrality," not "neutralism," in world affairs. The Swiss conception prohibits a commitment—membership and active participation in the United Nations—strongly

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"Neutralism" or "non-alignment" is here regarded as the attempt by its proponents to pursue an independent foreign policy by avoiding permanent political, military, or diplomatic affiliation with either the Western or communist blocs in the cold war. Several points about this definition require brief emphasis. Neutralism does not imply indifference to cold war problems, denial of the pervasive consequences of the conflict, or even non-entanglement by neutralist countries in all cold war issues. Furthermore, a neutralist position does not exclude temporary alignments or identifications with one or the other great power blocs in diplomatic, military, or ideological spheres. Nor does genuine neutralism necessitate a diplomatic position different from that identified with either the Western or communist camps. The controlling idea in neutralism is flexibility and independence in shaping foreign policy positions free from outside pressures. Nations advocating non-alignment may thus sometimes (1) agree with the West, (2) agree with the communist bloc, (3) agree in some respects with the positions of each and disagree in other respects, or (4) formulate positions of their own which are essentially different from policies advocated by nations on both sides of the Iron Curtain.[8]

Four themes have been conspicuous in recent American diplomacy concerning neutralism: indifference toward the movement; opposition to it; support for it; and reliance upon it. Indicating a deep and pervasive ambivalence and skepticism in the American mind about neutralism, official policy statements and programs as often as not have reflected

endorsed by neutralist thought outside Europe. Anticolonialism also forms a dominant *motif* in the neutralism outside Europe, by which is meant more often than not Western colonialism. Racial issues also loom large in the neutralism of nations like Egypt, India, and Indonesia. Finally, distinctive cultural, religious, and political traditions are major factors engendering neutralism throughout much of Africa, Asia, and the Arab world.

8 Particularly objectionable to neutralist thought is the expectation that a non-aligned position requires "equidistance"—that is (as a Yugoslav source has phrased it), the demand that neutralist countries "steer a middle course between East and West—a course at the same distance from both." "Non-Alignment and the Theory of Equidistance," *Review of International Affairs* (Belgrade), XII (November 5, 1961), 1–2. The key idea in neutralism is thus independence in arriving at foreign policy positions, as typified by the remark of the Foreign Minister of Cyprus: "Our non-alignment is the source of our freedom of judgment and independence of approach to world problems. . . ." Quoted in "Unity of Intentions and Efforts," *Review of International Affairs* (Belgrade), XIII (January 20, 1962), 4.

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two or more of these themes simultaneously. The result has been diplomatic efforts which were frequently contradictory, confused, and self-defeating. The alternating emergence and recession of these themes has produced a diplomatic cacophony which generated tensions between the United States and influential nations still in the free world.

I

Washington's indifference toward the determination of neutralist countries to avoid permanent alignment in the cold war is illustrated by the extension of arms aid to Pakistan and the resulting rift in Indo-American relations. Military assistance to Pakistan was inaugurated by the Eisenhower administration as part of its effort to bolster the SEATO "containment" fence along the Asian periphery of the communist bloc. Pakistan, said Secretary of State Dulles in justifying such aid, was the largest Moslem country and "a dependable bulwark against Communism" in Asia.[9]

Yet, from its inception, the arms aid program was regarded throughout India (and throughout other neutralist countries as well) as either a deliberate American threat to New Delhi's neutralist position or—perhaps the dominant view—an example of incomprehensible indifference by the United States to the consequences of its action, reflecting what *The Statesman* of India deplored as recurrent American ignorance of "the sensibilities of Asian people friendly to the democratic bloc. . . ." [10] Indian apprehension had to be understood against the long-standing "communal" strife between Hindus and Moslems on the subcontinent, leading to its eventual "partition" into separate Hindu and Moslem states. After partition, ancient cultural and religious animosities, border disputes, economic conflicts, and, above all, the still-smouldering Kashmir controversy, inflamed Indian-Pakistani relations. Indian sources thus were convinced that massive American military assistance to Pakistan would, in Nehru's words, adversely affect "the balance and equilibrium of India, Pakistan, and South Asia." [11] Indians derived small consolation

[9] Quoted in the *Hindustan Times* (Overseas edition), June 11, 1953.

[10] Quoted in *Indian Press Review*, II (January, 1954), 24.

[11] *Hindustan Times* (Overseas edition), November 26, 1953.

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from, and they were hard put to interpret, assurances by Secretary Dulles that the United States followed a policy of "neutrality" in India's disputes with Pakistan.[12]

Repeated American insistence to New Delhi that the military buildup of Pakistan was intended only for "defense" against communism likewise failed to allay Indian misgivings. Irrespective of American intentions, Indian sources replied, the move jeopardized India's security and gravely impaired its capacity to remain non-aligned in great power conflicts. Nehru informed the Indian Parliament that Washington's diplomacy "is likely to create the conditions which facilitate and encourage aggression" and that any move by or against Pakistan across the Iron Curtain would now automatically involve India. The "interlocking" character of Pakistan's defense links—giving Karachi ties with SEATO, the Baghdad Pact, and hence with powerful European states—well-nigh assured that nations far removed from Asia would become drawn into disputes between India and her neighbors.[13] India could compete with Pakistan, Nehru declared, but "we cannot go about competing with the United States or the Soviet Union . . . if either of these great countries throws its weight . . . it will make a big difference." [14]

That India's apprehensions were not groundless was indicated by two facts continually emphasized in official and unofficial Indian appraisals. One was that—despite comparable assurances Washington had given to Afghanistan—American-supplied arms had been used by Pakistan to enforce its claims toward disputed territory in northeastern Afghanistan. Some informed observers attributed the latter's growing military and economic dependence upon Moscow as an effort to preserve its security against a heavily armed neighbor.[15]

The second fact was the progressively belligerent tone of Pakistani opinion regarding the quarrels with India and the

[12] See Secretary Dulles' reply to the Indian press, as reported in the *Hindustan Times* (Overseas edition), March 4, 1954.

[13] See the *Hindustan Times* (Overseas edition), December 10, 1953.

[14] *India News*, VI (August 1, 1961), 1.

[15] See Lt.-Col. H. E. Crocker, "Afghanistan and Russia," *Eastern World*, X (1956), 17–19; "Land-Locked Afghanistan," *ibid.*, XVI (1962), 9–10; *Asian Recorder*, VII (October 15–21, 1961), 4211–12.

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latitude with which Karachi interpreted its defense agreement with the United States. Pakistani officials publicly conceded, for example, that the military buildup of their country would "force" India to reach a settlement of the deadlocked Kashmir question. While American arms were intended for "defense," President Ayub Khan of Pakistan stated that "it is an Asian country [India] that has been oppressing us and continues to oppress us."[16] Evident differences existed between Washington and Karachi concerning the circumstances under which such weapons might legitimately be used. To New Delhi, American officials stressed that Karachi was pledged to "consult" with the United States before employing them. Yet President Khan stated openly:

> At times, our American friends seen to question our right to defend our territory even, or take such action as will bring security. . . . America should be mindful . . . that if our territory was violated, we would spend our time dealing with the enemy rather than putting American weapons in cotton wool.[17]

No less fundamental than these considerations, however, was a conviction about American foreign policy India shared with other neutralist countries. This was the belief that the United States entertained a highly inflated sense of its own ability to control the behavior of its heavily armed allies. New Delhi had never been successful in getting specific information from Washington about the scope of military assistance extended to Pakistan. Indian officials, however, took note of the testimony of American military leaders themselves that Pakistan had more arms than were required for defense against communism.[18] Had obvious American opposition prevented an Anglo-French invasion of Suez in 1956? On the Asian scene, American inability to "control"

[16] M. S. Rajan, "India and Pakistan as Factors in Each Other's Foreign Policy and Relations," *International Studies*, III (1962), 364–66; *Asian Recorder*, VII (January 22–28, 1961), 3748.

[17] *Asian Recorder*, VII (July 2–8, 1961), 4038. On January 20, 1962, this same official stated that in an emergency there might not be time to "consult" before using American weapons, and "we would not care if anybody is annoyed by our actions." *Ibid.*, VIII (February 12–18, 1962), 4424.

[18] Rajan, 365.

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Syngman Rhee of South Korea during and after the Korean War, or to compel Chiang Kai-shek to withdraw remnants of his army from Burma, or to restrain Thailand and South Vietnam from harrassing Cambodia were not reassuring to the Indian mind. Hence a *Hindustan Times* editorial concluded that no one in India believed that the so-called "guarantees" contained in the American agreement with Pakistan "will be worth the paper on which they are written." [19] In the cryptic phrase of former Defense Minister Krishna Menon: ". . . the kind of guns that will fire only in one direction have not been made so far." [20]

The American decision to grant arms to Pakistan had, in the words of one observer, brought Indo-American relations to "the lowest depths into which they had ever fallen." [21] To bridge the widening gulf, Washington made two further diplomatic moves, which served only to raise further questions in India about its actual intentions. Initially, the United States endeavored to bring India under the protection of SEATO, eliciting the reply from Nehru that it was a strange kind of alliance system that sought to "protect" nations which did not ask for it and were opposed to it in principle.[22] Subsequently, reports circulated in Washington that India would receive the unilateral protection of the United States, along with an arms aid program of its own, if that were desired to counterbalance Pakistan's growing military might. Official Indian opinion reacted to this tactic with shocked indignation. If India's philosophy of non-alignment rejected great power "protection" and massive arms aid programs as a matter of profound principle, Nehru remarked caustically, such offers to India offended national dignity and had the effect of merely "adding insult to injury." [23]

Responsible opinion inside and outside India had warned that failure to resolve this issue might bring reluctant, but inevitable, Indian dependence upon the communist bloc.

19 *Hindustan Times* (Overseas edition), December 10, 1953. See also *ibid.*, March 4, 1954, and *The Times of India,* May 18, 1961.

20 *The Times of India,* June 24, 1961.

21 Rajan, 366.

22 *Hindustan Times* (Overseas edition), September 16, 1954.

23 *The Times of India,* June 27, 1961.

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By mid-1962—against a background of ominous Red Chinese threats to her northern provinces and of signs of growing "independence" in Pakistani foreign policy, reflecting Karachi's mounting resentment toward American restraints upon its actions—India decided to purchase modern Soviet jet aircraft. Having earlier failed in attempts to buy up-to-date weapons from the United States, New Delhi turned to communist sources to redress the military balance in Asia.[24] Headlines like "INDIA'S MIG PLAN IRRITATES CAPITAL" testified to the chagrin in Washington which greeted this news.[25]

India's move did not of course signify that New Delhi had abandoned its policy of "neutralism," much less that it had become a willing "satellite" of the Kremlin. Despite grim predictions in the West, other neutralist countries had received communist arms without succumbing to communist control over their policies. Moreover, in the long-range perspective of Indo-American relations, the steady improvement in the atmosphere between New Delhi and Washington (revealed, for example, by massive American support for India's development plans) would most likely continue. If America's indifference to India's neutralism was serious, it was not irreparable. It was simply an avoidable obstacle in the path of greater cordiality and cooperation between two of the leading democracies in the free world.

II

On June 9, 1956, Secretary of State John Foster Dulles observed that within the past decade the United States had concluded defense treaties with forty-two countries. He added:

> These treaties abolish, as between the parties, the principle of neutrality which pretends that a nation can best gain safety for itself by being indifferent to the fate of others. This has increasingly become an obsolete conception, and except under very exceptional circumstances, it is an immoral and shortsighted conception. . . .

Asked if President Eisenhower shared this view, Mr. Dulles replied that he was satisfied "there is no difference of opinion

24 *The Times of India*, June 27, 1961.

25 *The New York Times*, June 17, 1962.

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between the President and myself on that subject." [26]

Such judgments have not been confined to the plane of verbal disapproval of neutralism. The Suez crisis of 1956 stemmed in large part from the unwillingness of the United States to extend assistance to Nasser's Egypt for construction of the Aswan High Dam, after Cairo had purchased communist arms, recognized Red China, and given other indications of following Moscow's line toward certain global issues. In his account of the diplomacy of the Eisenhower administration, Presidential Assistant Sherman Adams has called attention to the degree to which Nasser's "neutralism" alienated Washington from Cairo. In Adams' words: "Nasser balked when he saw the conditions that the United States attached to the Aswan Dam grant-loan proposal—no side deals between Egypt and the Soviets." At a White House conference on August 12, Secretary of State Dulles declared: "I believe Nasser intends to unite the Arab world, and, if possible, the Moslem world, and then to use Mideast oil and the canal as weapons against the West. . . ." [27]

These constitute some of the most candid illustrations available of America's second diplomatic approach in dealing with neutralism: evident opposition to it, coupled with overt and covert steps to counteract it. Diplomatic expediency might normally dictate more restraint in verbalizing this appraisal than Secretary Dulles displayed; in fact, neutralist spokesmen have conceded that usually the United States has denied being opposed to non-alignment. There is also recognition in neutralist circles that the trend of American policy since the early Eisenhower period has been away from the belligerent Dulles conception.[28] Nevertheless, organs of neutralist opinion continue to discern a lingering and deep-seated skepticism toward neutralism in public and official viewpoints prevalent in the United States.

A few examples must suffice to illustrate the point. A publication of the Arab Information Center in the United

[26] Paul E. Zinner (ed.), *Documents on American Foreign Relations: 1956* (New York, 1957), 35.

[27] Sherman Adams, *First-Hand Report* (New York, 1961), 249, 251.

[28] See, for example, *The Times of India*, September 6, 1961; the *Hindustan Times* (Overseas edition), March 6, 1957; and the *Egyptian Mail*, February 18, 1961.

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States alluded to the fact that efforts by newly independent Arab countries to adopt a diplomatic posture of "non-alignment" have met "with a stiffening Western attitude and with efforts to entrench and consolidate Western positions in the Arab world." It was charged that Arab espousal of neutralism encountered "threats, economic pressures, punitive sanctions, and thinly-concealed instigations toward the 'isolation' of any Arab government which dared assert and exercise its independence." [29] In 1958, an Indonesian source commented on the low level of American foreign assistance to that country by saying: "In relation to its eighty-five million people, Indonesia is receiving the least in terms of U. S. economic aid, a fact which may be attributed to the policy of neutrality and independence followed by Indonesia." [30] Such themes have also been prominent in Indian circles for many years. Thus in 1956 an editorial in the *Hindustan Times* wearily lamented that the "cheap jibes and sneers in certain sections of the U. S. press at 'Nehru's neutralism' will no doubt persist. . . ." [31] Following Nehru's visit to America in 1961, *The Times of India* called attention to a "certain impatience with India and the non-aligned powers" in the United States. It conceded that New Delhi's policy of non-alignment "has not been entirely welcomed in the State Department where the assumption apparently was that a judicious mixture of tact, sympathy and stringless aid would achieve what Mr. Dulles' bluster failed to accomplish—the conversion of the non-aligned powers into willing and enthusiastic allies." [32] The Washington correspondent for the same paper reported after the Belgrade Conference in early September 1961, that "the public is angry" in the United States. His dispatch gave prominent attention to the view of the Chairman of the GOP Committee for the District of Columbia, who contended:

> Henceforth the United States must adopt a new policy on foreign aid. Generous aid and military assistance for our allies and friends, yes; for neutralists, no. It is clear that

[29] "Arab Positive Neutrality," *The Arab World*, III (1957), 11.

[30] *Indonesian Spectator*, April 1, 1958.

[31] *Hindustan Times* (Overseas edition), April 5, 1956.

[32] *The Times of India*, November 11, 1961.

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> every dollar of foreign aid that goes from the United States to the neutralists is a contribution to our own doom.

This correspondent found a tendency in Washington to believe that the merest "suggestion" the United States proposed to re-examine its aid program would immediately bring "a miraculous change" in the attitude of neutralist countries.[33] Prominent attention was given in the press of non-aligned nations to statements like the comment of Secretary of State Dulles cited above, to *Time* magazine's judgment on the Belgrade Conference—"big, bad Russia had in fact cowed them [the non-aligned states] into appeasement" [34]—and to the statement of Vice President Nixon that the American people were getting "a belly full of so-called neutralism." [35] Even sources normally sympathetic to the Western alliance have referred to a growing toughness among officials in Washington toward countries advocating non-alignment.[36]

That such judgments may sometimes stem from misreadings of American diplomatic intentions by neutralist observers must of course be conceded. Advocates of non-alignment no less than their critics reveal the presence of distortions and stereotypes in their assessments of global affairs. Reasons of political or diplomatic expediency may also prompt such verdicts, as when political candidates in neutralist societies are required to prove their "anti-Westernism" or when regimes desire to rationalize acquisition of economic or military assistance from the communist bloc. These considerations alone, however, cannot account for endemic neutralist apprehensions about American appraisals of their credo. Genuine or fancied, these fears pervade nearly all organs of neutralist opinion and color relations between the United States and countries throughout the neutralist zone.

The hostility of the United States toward the neutralist movement is attributed to several factors. A commonly voiced explanation is that the American people are politically "naive"; they are unable to discriminate between such

33 Dispatch by H. R. Vohra in *The Times of India,* September 10, 1961.

34 Quoted in Andrew Boyd, "Fall-Out from Belgrade," *Eastern Economist* (October 22, 1961), 541.

35 *Egyptian Gazette,* November 19, 1961.

36 See *The Straits Times* (Singapore), September 9, 1961.

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inherently dissimilar forces as anti-colonialism (which most neutralist countries espouse) and subservience to communism (which almost all neutralist nations just as strongly resist). This confusion in the American mind is traced to a fundamental ignorance about the strength and nature of nationalist tides sweeping the Arab world, Asia, and Africa. A variant on this theme is the allegation that Americans confuse neutralist determination to escape Western domination and control with an intention to embrace communist domination and control.[37]

Especially obnoxious to proponents of non-alignment was the theory prevailing in Washington at the time of the Eisenhower Doctrine in 1957 that a "power vacuum" existed in the Middle East into which either America or Soviet power must necessarily flow. This belief underlay a serious rift in American relations with Syria which, according to former Syrian President Shukri al-Kowatly, grew out of militant Arab opposition to envisioning the Middle East as a "power vacuum" and to State Department attempts to muster Arab support for the Eisenhower Doctrine. Secretary Dulles was reported in the Arab press as having said on August 19 that Syria showed "definite indications of turning into a Soviet satellite"; on August 21, President Eisenhower told his news conference that a Syrian decision to purchase communist arms constituted a "smoke-screen" to hide a communist buildup in Syria and revealed the "old Soviet pattern" of trying to gain control over a country by military and economic infiltration. Syria and other Arab governments regarded subsequent American naval maneuvers in adjacent waters and continued American efforts to gain Arab adherence to the Eisenhower Doctrine as convincing evidence of Washington's hostility toward Syrian "neutralism." "The only sin of Syria in the eyes of America now," said Nasser, "is the fact that Syria will not dance to the American tune and will not take American orders." Syrian officials labeled American diplomacy "interference in Syria's domestic affairs." And a subsequent Arab treatment of the crisis commented:

[Acceptance of the Eisenhower Doctrine] would have neces-

[37] See *Report on Indonesia*, VII (1956), 4 and VIII (1957–58), 21; *The Times of India*, May 2, 1961.

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> sarily entailed alignment with the Western Powers and departure from the chosen policy of neutrality. It is ironical that today Syria is blamed by the United States for having departed from a policy of neutrality, while the United States has never recognized or respected that policy of neutrality at any time.[38]

Other explanations offered for America's anti-neutralist orientation are that it represents a calculated effort by Western countries to dominate the affairs of non-aligned states, under the guise of "protecting" them from the communist menace; that it springs from pervasive American ignorance about the historical, cultural, and strategic roots of non-alignment and the diplomatic goals of neutralist countries; that it derives from the dominant roles of public opinion and Congress in the American foreign policy process; that it stems from the ability of powerful figures like Secretary of State Dulles to dominate the President (whose views, it is assumed, are more sympathetic); that it shows the inability of the United States to take criticism, even from its friends; and that it is but part of an emotional reaction against prominent neutralist figures to whom Americans have an aversion, like Krishna Menon.[39]

Neutralist sources concede that on occasion apparent American opposition to neutralism may be more accidental than intentional, resulting from the "irresponsibility" of the United States in arming allies over whose conduct Washington is able to exercise minimum control. Thus, in Burma's view the United States was derelict in refusing to halt remnants of Chiang Kai-shek's armies from adding insecurity to its already unstable regime and from jeopardizing Burma's non-aligned position in the cold war.[40] Repeated protests have been made to the State Department by Cambodian authorities concerning alleged "interference" in their country by two heavily armed American allies in Southeast Asia,

38 "Syria and the United States," *The Arab World,* III (1957), 4.

39 See discussions of American foreign policy in the *Hindustan Times* (Overseas edition), March 6, 1958; *The Times of India,* November 19 and 21, 1961; *Egyptian Gazette,* September 17, 1961; "The Middle East and Its Aspirations," *Review of International Affairs* (Belgrade), VIII (September 1, 1957), 2–3.

40 See the *Hindustan Times* (Overseas edition), April 30, 1953 and July 12, 1956; "Lesson of Burma," *Eastern World,* VIII (1954), 5.

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Thailand and South Vietnam. Cambodia is convinced that, at worst, this pressure reflects an intentional American policy of forcing the country into the Western camp; it has warned that continuing pressures will only bring Cambodia's growing reliance upon the communist bloc. At a minimum, Washington is charged with being an accomplice to a conspiracy to undermine Cambodia's neutralism, if only by its manifest failure to restrain its allies.[41] Irrespective of whether such fears are real or imaginary, they are sufficiently embedded in the mentality of neutralist governments to raise the spectre that non-alignment is in danger of being ground between the upper millstone of American animosity and the nether millstone of growing disenchantment with neutralism in Moscow and Peiping.

III

If neutralist countries have been conscious of deeply ingrained skepticism and hostility in the United States toward diplomatic non-alignment, they have been no less conscious of a contrary theme in American foreign policy: qualified, sometimes enthusiastic, endorsement of neutralism, coupled with concrete steps to assure its continuation. On September 29, 1962, President Kennedy recognized the new Algerian Republic. In tones characterized by the press as "unusually warm," the President expressed his "earnest desire to foster and extend cordial relations that exist between our two countries." The previous day Premier Ben Bella had publicly pledged his country to a "neutralist and non-engaged" foreign policy. Officials in Washington were said to display "cautious optimism" about Algeria's internal and external policies.[42] Speaking at his press conference a few weeks earlier, President Kennedy discussed the provision of American economic assistance to countries like Yugoslavia, which also received aid from the communist bloc. In his view, aid to Yugoslavia did not entail a "moral issue." He

41 See H. C. Taussig, "Neutral Cambodia," *Eastern World*, XI (1957), 32–35; V. M. Reddi, "A Study of Cambodia's Neutralism," *International Studies*, II (1960), 190–205, the *Hindustan Times* (Overseas edition), July 14, 1960; and *Egyptian Gazette*, October 29, 1961.

42 Dispatch by Peter Braestrup in *The New York Times*, September 30, 1962.

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believed that the United States was required "to make a judgment as to what serves our interest—whether the country is attempting to maintain its freedom; whether the country is pursuing policies which are not inimical to the long-range interests of the United States." Kennedy specifically cited India which, as a primary beneficiary of American economic aid, had remained "free" and "non-Communist." New Delhi had demonstrated a determination "to maintain its freedom and therefore I think it's in our interest to support it." [43]

Even under the Eisenhower administration, officials—including Secretary of State Dulles himself—had tempered and qualified Dulles' earlier strictures against neutralism. Thus in 1958 Dulles justified American assistance to non-aligned countries by saying:

> . . . we cannot adopt a policy of not extending a certain amount of assistance to countries which also deal with the Soviet Union. . . . As a matter of fact we all have some dealings with the Soviet Union, including the United States. Each case must be dealt with on its own facts with enough flexibility to achieve the result which we all want. This is checking the growth of Communist imperialism.[44]

Even more sympathetic judgments upon neutralism and America's proper response to it came from Vice President Nixon. On December 6, 1956, Nixon declared that "The struggle for the world will be finally determined by what happens to the millions of people now neutral. . . ." He urged Americans to "practice what they preach at home" as a vitally important step in maintaining constructive relations with such countries.[45] Two years later Nixon said in reference to India:

> If India is independent and is strong enough . . . then I say this is in our interest. Now let us not also forget that as far as the choice is concerned it is far better for India or any one of these other [non-aligned] countries to be independent, to be neutral, to be uncommitted, than to be on the Communist side.

[43] *The New York Times,* August 23, 1962.

[44] U. S. Congress, House Committee on Foreign Affairs, *Hearings on the Mutual Security Act of 1958,* 85th Congress, 2nd Session, 1958, I, 190–91.

[45] Zinner, 64.

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Nixon took particular pains to refute certain misconceptions in the American mind (that Nehru's neutralism is "just the next thing to Communism") by emphasizing that India had the same attachment to the principles of law and freedom as the United States itself.[46] On another occasion, Nixon agreed that in providing foreign aid, "You can't buy friends." But the purpose of American aid to neutralist countries

> is not to buy their friendship . . . and not to make them satellites. We aid them in order to toughen their economic and political fibre to a point where they be independent of any foreign domination, including our own—because national independence based on political and economic stability is completely incompatible with international Communism.[47]

From time to time neutralist sources have given prominent attention to American statements in the same vein. Thus the Indian press featured a remark by Secretary of State Dulles during his Asian tour of 1954: "I do not find that India is neutral on the question of democracy versus totalitarianism. . . ." *The Hindu* of India commented that it was a ". . . distinct gain when Mr. Dulles realizes that a third view is possible, that India could be loyal to democracy and at the same time advocate solutions for world problems which are different from those insisted on by the Western bloc." [48] Indonesians were similarly heartened by a remark of American Ambassador Hugh Cummins, Jr., who likened Indonesia's experience to America's. Both countries began "by throwing off foreign rule. In their early phase of weakness and instability, both found it expedient to avoid overentanglement in international politics." [49]

More significantly than policy declarations and endorsements, however, the policies and programs of the United States testified to American support for a posture of nonalignment. Official and unofficial Indian sources glowingly commended the United States for its leading role in the "Aid to India Club" (consisting of Western nations endeavoring to assist New Delhi in its long-range development

[46] Quoted in *India News,* III (March 15, 1958), 3.

[47] *Report on Indonesia,* VIII (1957–58), 3.

[48] *Indian Press Digest,* II (1954), 76–77.

[49] Quoted in *Report on Indonesia,* VIII (1957), 4.

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plans). Despite persistent indignation throughout India over arms aid for Pakistan, America's generous support for Indian development was interpreted as evidence of the inherent good will of the American people and of close ideological affinity between the two great democratic systems.[50] Comparable, though perhaps more qualified, statements have emanated from official and unofficial sources in Yugoslavia, Burma, Indonesia, Egypt, and Ghana.[51] A persistent theme in such viewpoints was that Presidents Eisenhower and Kennedy were even more sympathetic to the neutralist movement than their advisers, Congress, and American public opinion. A writer in *The Times of India,* for example, referred to the American public's "hysterical obsession with such irrelevancies as Mr. Krishna Menon," and commended President Kennedy for maintaining his perspective on neutralism in the face of strongly adverse public reactions.[52] By the end of the Eisenhower administration and the beginning of the Kennedy administration neutralist sources purported to discover a certain "maturity" in the American outlook toward neutralism. Even normally pro-Western sources identified a new outlook in Washington toward non-alignment.[53] The views of officials like Assistant Secretary of State for African Affairs G. Mennen Williams were, for example, circulated by the semi-official *Egyptian Gazette.* Williams stated: "We must welcome Africa's new independence. We think it is a positive force. We do not wish to control or direct it. . . . Our criterion is not whether the Communists are interested in country X—but whether country X needs assistance to work toward legitimate goals." [54] In common with other neutralist leaders, the Foreign Minister of Afghanistan has commented that "it was noteworthy that

50 See the view of the Indian Finance Minister in *The Times of India,* November 28, 1961 and the comments of the *Hindustan Times* (Overseas edition), January 23, 1958.

51 See, for example, the views of Nkrumah, as reported in *The Times of India,* November 28, 1961; the views of Tito in "Report of the Secretary General of the Yugoslav League of Communists," *Review of International Affairs* (Belgrade), IX (May 15, 1958), 9; and qualified Indonesian tributes in the *Indonesian Spectator* (April 1, 1958).

52 *The Times of India,* November 13, 1961.

53 *The Straits Times* (Singapore), September 27, 1961.

54 *Egyptian Gazette,* October 27, 1961.

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the main military blocs had in time fully appreciated the good intentions of the non-aligned countries and their interest in the maintenance of world peace and security." [55]

But to neutralist opinion, the acid test of America's new appraisal of neutralism—and, in turn, in Washington's eyes a test of whether non-alignment was compatible with American diplomatic interests—involved the tiny Asian kingdom of Laos. The attempt to create "an Austria in reverse" (that is, a country ideologically oriented more toward the East than the West, but technically "neutralized") placed America's attachment to non-alignment in the balance. Since 1959, a political and military crisis had gripped Laos, as three political factions fought for dominance. Premier Boun Oum headed a right-wing, militantly anti-communist and pro-Western, faction which enjoyed the backing of the United States. American endorsement was expressed tangibly in a regular subsidy amounting to $300 million from 1955 to 1961. Opposing Boun Oum's regime was the *Pathet Lao* (Land of Laos) movement, led by Prince Souphanouvang. Heavily infiltrated, if not controlled, by communist elements, in common with similar Asian movements in the recent period, the *Pathet Lao* advocated nationalism, reform, elimination of pervasive governmental corruption, and a foreign policy closely linked with the communist bloc. By 1961 massive American assistance to Boun Oum had not prevented the *Pathet Lao* from controlling the northern and central sections of Laos and of threatening to dominate the entire country. Between these two factions was the avowed "neutralist," Prince Souvana Phouma, who gained power in 1960 but quickly lost it to a *coup* carried out by American-supported Boun Oum forces. Convinced of his ability to forge a stable government of "national unity" embracing all three factions, Souvana Phouma clung to his neutralism (even if he gravitated closer to the communist bloc) despite Washington's evident disapproval.[56]

Successive victories by the *Pathet Lao* induced a change in

[55] Sardar Mohammed Naim, "Non-Aligned Countries and Vital Issues of the World," *Review of International Affairs* (Belgrade), XIII (March 20, 1962), 5.

[56] See Philip Wright, "Laos: Wrong Place for a War," *The Reporter*, XXIV (February 16, 1961), 20–30 and Denis Warner, "The Loss of Laos," *ibid.*, XXV (July 6, 1961), 21–24.

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American policy toward "neutralism" as an acceptable basis for stability in Laos. In that tiny kingdom—as in practically every country espousing the neutralist philosophy—one cardinal fact overshadowed all others: under no conceivable circumstances was Laos likely to enter the Western camp. Short of massive and indefinite Western military intervention (producing what Soviet spokesmen ominously referred to as "another Korea"), the United States had two alternatives. It could support and try to make viable Souvana Phouma's neutralism, distasteful as it might be; or it could acquiesce in the almost inevitable incorporation of Laos into the communist bloc. Accordingly, President Kennedy agreed with Khrushchev in June 1961 to accept the "neutralization" of the country. To compel compliance with the agreement, the United States cut its subsidy to the Boun Oum regime until it joined the other two factions in evolving a "troika" government of national unity.[57]

Several other factors induced the United States to support a solution of the Laotian crisis described by one American official as "a pattern for peace not only in Laos, not only in Southeast Asia, but throughout the world."[58] Not the least of these was Washington's growing "isolation" on this issue from both its major European allies and from neutralist opinion in Asia and throughout the world. Britain and France were patently cool about seeking a military solution to the problem by relying upon SEATO; there was the danger that such a step might all too graphically reveal SEATO to be the "paper tiger" Red Chinese propaganda depicted it to be.[59] Since the crisis began in 1959, neutralist opinion had clamored for an end to "foreign intervention" in Laos, by which was meant chiefly American interventionism. America's earlier opposition to Souvana Phouma's neutralism, accompanied by overt steps to undermine his position, were widely cited in neutralist circles. By 1962, one source commented that ironically the situation in Laos had now "reverted to exactly the same position as what it was before

[57] *The New York Times*, June 10, 1962.

[58] Denis Warner, "Shotgun Wedding in Laos," *The Reporter*, XXVI (February 1, 1962), 27.

[59] Richard P. Stebbins (ed.), *The United States in World Affairs: 1960* (New York, 1961), 283.

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the U. S. intervened to overthrow neutralist Prince Souvana Phouma and attempted to establish a western-oriented regime. . . ." [60] Yet neutralist sentiment could not be interpreted as in any sense totally anti-Western. The intentions of the Soviet Union and Red China were no less on trial in Laos. If neutralist opinion tended much more than American to emphasize the "nationalism" indigenous to such movements as the *Pathet Lao,* neutralist sources would also agree substantially with an editorial in the *Hindustan Times:* "If the Pathet Lao claims to be fighting for the neutralism of Laos, here is their opportunity to prove their claim. Russia has been providing military aid to Pathet Lao forces and should have no difficulty in persuading them to prefer a peaceful settlement to needless fighting." [61] Neutralist opinion also firmly rejected another possible alternative for Laos, which, in their view, would gravely jeopardize the security of adjacent Asian countries: partition of the country. In neutralist appraisals, this would eventually extend Chinese power to the south, since the *Pathet Lao*'s ideological ties were held to be stronger with Peiping than with Moscow.[62] By the same token, neutralist voices unanimously rejected an American suggestion that SEATO "guarantee" Laotian neutrality. In the last analysis, only the Laotians themselves could effectively assure the future neutralization of their country. "Neutrality by military guarantees," said a high Indian official, "would be worse than the disease. . . ." [63]

Washington had reluctantly embraced neutralism for Laos for essentially the same reasons it had re-examined earlier appraisals of Egyptian, Indian, or Indonesian policies. It realized that it could not substantially change the strength of neutralist sentiment in key countries, except perhaps to drive it closer to the communist orbit. It was aware that acceptance of neutralism constituted a lesser evil to Laos' closer alignment with (not to speak of its possible absorption into) the communist world. America recognized (if as nothing more than a matter of temporary diplomatic expediency) that endorsement of neutralism for Laos offered the only

[60] "Laos and Vietnam," *Eastern World,* XVI (1962), 9.

[61] *Hindustan Times* (Overseas edition), March 30, 1961.

[62] *The Times of India,* May 17, 1961.

[63] *The Times of India,* May 21, 1961.

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hope of re-establishing a more favorable Western position in that part of Asia. American officials were aware also that their own favorable assessments of neutralism were on trial in Laos. And, in the face of a steadily deteriorating military situation, they accepted the fact that the foreign policy orientation of the country would ultimately be decided by the Laotian peoples themselves.

No informed student of the Laotian question believed that neutralization would guarantee Lao's continued independence, still less that it would prevent its closer identification with Moscow and Peiping. What could be guaranteed, however, was that in the absence of an American decision to accept a neutralization scheme, coupled with diplomatic efforts aimed at holding Laos in the neutral community, the country would pass inexorably behind the Iron Curtain. Toward Laos, as toward other neutralist countries advocating nonalignment, the United States had concluded that further efforts to compel a pro-Western orientation did little more than drive Laos into the arms of Moscow and Peiping and undermine what remained of the Western position in Asia.

IV

Recent American foreign policy has not only reflected more favorable official assessments of the principle of nonalignment, but it has also revealed a tendency on selected occasions to go one step further: reliance upon neutralist countries for the achievement of national objectives.

A dominant *motif* in neutralist thought is that non-alignment must be understood as implying positive as well as negative obligations. Neutralist countries may want to avoid permanent alignments in cold war power constellations, but their leaders have also repeatedly emphasized that this did not imply "isolationism" or in any way suggest lack of concern for critical international issues. The compelling duty of neutralists, said Prime Minister U Nu of Burma, is "to bring East and West nearer." [64] They are capable, said the Foreign Minister of Tunisia, of exercising "a moral power of extraordinary significance" and of "bridging the gap between the two large opposing blocks." [65] Nkrumah

[64] *The Straits Times* (Singapore), August 29, 1961.

[65] Sadok Mokaddem, "To Overcome Mistrust," *Review of International*

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has stated that "Throughout the world there is a deep but often inarticulate desire for peace." It is therefore the "duty of countries which follow a positive neutralist policy to make this world opinion assert its full weight." [66] As far back as the Bandung Conference of 1955, Sir John Kotelawala of Ceylon found the great powers "at a loss" to resolve world tensions. Consequently, he was convinced that "The salvation of the world depends not only on the great powers but on the lesser countries. . . ." [67] Referring to the "utter failure" of the great powers to assure global peace and security, Nasser summed up the purpose of the Belgrade Conference as evolving "a plan which can drive negotiations between the two blocs to the domain of practical application" and to "set the world on courses of sanity." [68] In the same period, a Yugoslav source stated that "It is essential that the un-committed countries should take part in the solution of international problems if any progress is to be made. . . ." [69] Krishna Menon, when Defense Minister of India, likened his country's role in world affairs to that of a fireman called to extinguish crises before they ignite into a global holocaust.[70] It is thus a widely accepted article of faith among neutralists that their creed is (in a Yugoslav conception) "an active, positive and constructive policy, which aspires to collective peace, on which collective security alone can rest." [71]

Ample recognition may be taken of the pretensions, idealistic aspirations, propagandistic and moralistic overtones, and extraneous motivations frequently present in such pronouncements. These do not, however, vitiate the main point: neutralism contemplates active (if "non-aligned") involvement in international affairs and contends that, under certain cir-

Affairs (Belgrade), XIII (February 5, 1962), 6.

66 Quoted in Joze Smole, "Preparation for 'The World Without the Bomb Conference,'" *Review of International Affairs* (Belgrade), XIII (March 20, 1962), 8.

67 Quoted in *Report on Indonesia,* VI (1955), 17.

68 *Egyptian Mail,* September 2, 1961.

69 Smole, "The Conference of the Uncommitted," *Review of International Affairs* (Belgrade), XII (August 5–20, 1961), 2.

70 *India News,* V (September 1, 1960), 1.

71 Dr. Ales Bebler, "Role of the Non-Bloc Countries," *Review of International Affairs* (Belgrade), IX (January 1, 1958), 1.

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cumstances, neutralist countries are in a position to make constructive contributions in the solutions of vexatious global problems. Increasingly, American foreign policy has conceded a measure of validity to this claim. Since this is the most recent theme in American diplomacy toward neutralism, examples are not yet abundant, but enough exist to illustrate the tendency.

With respect to the situation in Laos, on several occasions the United States utilized advocates of neutralism to achieve its goals. Krishna Menon played a significant role in mid-1961 in bringing agreement among countries involved in Laotian negotiations on the composition of the Geneva conference. In addition, he served in a liaison position between the Western and communist blocs to explore alternative proposals for an acceptable agreement.[72] Burma joined with India in helping to break a threatened conference deadlock over the seating of a delegation from the *Pathet Lao*.[73] The editor of the *Times of India* referred to the pressure exerted upon New Delhi by both great power blocs to take greater initiative in seeing that progress was made on Laos,[74] and the Washington correspondent of the same journal noted that once the Western and communist blocs had accepted the principle of a "neutralized" Laos, India would have to play "the principal role in safeguarding the neutrality of Laos for a long time to come." [75]

Speaking for the new revolutionary government of Iraq, Mr. Hashim Jawad pledged: "We will pursue an independent policy, collaborating with those countries which contribute to our development . . . and we will also look to the experience of other nations—such as Japan and India—which provide a helpful example. . . ." [76] In accordance with the desire both to reorganize American foreign assistance programs and to cultivate more friendly ties with neutralist countries, the Kennedy administration's diplomacy took note of neutralist viewpoints like those of Iraq. Thus when Vice

72 *The Times of India*, May 15, 1961.

73 *The Times of India*, May 6, 1961.

74 *The Times of India*, May 2, 1961.

75 *The Times of India*, May 13, 1961.

76 "New Goals, New Freedom," *Arab World*, IV (1958), 5.

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President Lyndon Johnson toured Asia, he stated that the United States not only had derived valuable experience from India's constructive use of foreign aid, but that Washington proposed to consult New Delhi about the most effective means for making aid available to underdeveloped countries.[77]

Another persistent theme in neutralist thought is that nonalignment does not imply indifference toward military conflicts, much less dictate a position of military weakness or impotence. Neutralist states acknowledge an obligation both to accept a role in resolving such conflicts and in preventing them from becoming global in scope. Thus the Nasser-controlled *Egyptian Gazette* referred to the necessity to have "the strength to impose the policy" espoused by nonaligned states. It cited Egypt's contribution of military forces to the Congo and its contribution to Arab League military units in Kuwait.[78] India's role as "honest broker" has been recognized by the United States and other great powers on several occasions. Thus K. M. Panikkar, New Delhi's former Ambassador to Red China, stated with reference to the Korean War: "When the crisis seemed to have engulfed the whole world, it was the firm and persuasive policy followed by the Indian government . . . that helped to limit the conflict and bring it to the plane of diplomatic negotiations." [79] Three years later, Indian sources featured tributes by Secretary of State Dulles to Mr. Krishna Menon for his efforts to secure the release of American prisoners of war in Red China.[80] Similarly, India's influence was evident in the Suez crisis of 1956, not only in trying to bring a prompt Anglo-French-Israeli withdrawal from the Suez area, but in warning Cairo about the economic consequences of a protracted struggle to Egypt and nations which sympathized with its position. One source found that the identity of diplomatic interests between the United States and India in this episode had brought them to the highest level of mutual understanding yet attained in the postwar period.[81]

77 *Asian Recorder,* VII (June 18–24, 1961), 4010.

78 *Egyptian Gazette,* July 25, 1961.

79 *Hindustan Times* (Overseas edition), July 24, 1952.

80 *Hindustan Times* (Overseas edition), June 9, 1955.

81 "New Axis," *Eastern World,* X (1956), 10–11; *Eastern Economist,* XXVII

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The United Nations also affords an illustration of direct and indirect American reliance upon neutralist influence to achieve diplomatic objectives. Neutralist sources, for example, have interpreted Soviet demands for a "troika" to replace the office of Secretary General as directed in the long run fully as much against the growing influence of nonaligned states in world affairs as against the Western bloc. While the Soviet "troika" plan may have had some initial appeal (by assigning one of the proposed three offices to the neutralist world), within a brief time neutralist opinion hardened solidly against the Soviet proposal. Ultimately, the neutralist world stood as a phalanx against it. Surveying this phenomenon, one source found ". . . the more active a part a nation is playing in UN affairs, the more unpalatable the troika apparently becomes." [82] The United States thus found itself joined by the neutralist world in steadfastly opposing a move aimed at rendering ineffectual international machinery which American and neutralist leaders alike regarded as indispensable to global peace and stability.

CECIL V. CRABB, JR.

VASSAR COLLEGE

(September 14, 1956), 382.

82 "The United Nations Gropes for Hope," *The Economist*, XX (September 30, 1961), 1265.

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UNION STRUCTURE AND PUBLIC POLICY: THE CONTROL OF UNION RACIAL PRACTICES

THE politico-economic organizations which dominate modern industrial societies present difficult problems for social scientists. We must, for instance, be concerned about the impact of unions and corporations on the general level and structure of wages and prices, economic growth, resource allocation, efficiency, and the concentrations of power which they represent. We must also be concerned about the responsiveness of these organizations to their members, their influence on the supplies of skilled manpower, their possible abuses by communists or criminals, their ability to disrupt the economy through economic conflict, and the moral and economic problems associated with racial discrimination in employment. While governments have adopted a variety of policies with respect to these questions, there frequently remains a wide gulf between public policy and private practice.

The basic purpose of this paper is to develop a conceptual framework which might be useful in the implementation of nondiscrimination policies with respect to trade unions. It is our conviction that many of the proposals for dealing with organizational problems are too general and fail to reduce the questions to manageable proportions. Specifically, it is felt that public policy must distinguish the desirable from the possible and must be based upon an understanding of power, strategy, and organizational structures. While our discussion will be focused on the control of racial discrimination by unions, the conceptual framework can be used, with modifications, to study other organizations and other problems.

I

Power considerations inevitably occupy central positions in the social sciences, but are rarely made explicit. For example, the term "monopoly" is frequently used to describe unions, though it cannot have precise meaning in this context because unions do not operate like business enterprises;

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this is perhaps one of the reasons those who describe unions as monopolies, and see the application of anti-trust laws as the solution to the union power problem, frequently either fail to specify the kinds of acts they would prohibit or specify acts which are already proscribed for unions under existing anti-trust or other legislation. A basic difficulty in analyzing this problem is the inability to quantify "power," though this limitation does not deter some critics from asserting categorically that unions or other organizations have "too much" power.[1] We must, therefore, be more specific about the uses and limitations of different kinds of power.

Power may be defined for our purposes as the ability to cause or to prevent change.[2] Economic power is the ability to grant or withhold goods and services, and could be used against a union, for instance, by weakening its control of the supply of labor, denying its members access to the market, requiring them to lose money through fines and other penalties, and prohibiting cooperation among unions and union members. Moral power is the ability to cause or prevent change through appeals to fundamental concepts of rightness, which will, of course, be relative to time, place, and circumstances. Physical power is the ability to cause or prevent change through the use of physical force. While physical violence is frowned upon in "civilized" societies, it is still an important form of power insofar as unions are concerned. We shall, however, assume that physical force will not be an important source of power for public policy purposes, though, of course, the power of the state ultimately rests upon the ability to destroy or incarcerate. Political power is a conglomeration of moral, economic, and physical power, and may refer to governmental political power or to political action within organizations; the government, in this view,

[1] See, for example, Edward H. Chamberlin, "Can Union Power Be Curbed?," *Atlantic Monthly*, CCIII (1959), 46–50; and the statements by several economists in Philip D. Bradley (ed.), *The Public Stake in Union Power* (Charlottesville, Virginia, 1959); David McCord Wright (ed.), *The Impact of the Union* (New York, 1951); Edward H. Chamberlin, Philip D. Bradley, Gerard D. Reilly, and Roscoe Pound, *Labor Unions and Public Policy* (Washington, D. C., 1958).

[2] For other treatments and definitions of power, see John R. Commons, *The Economics of Collective Action* (New York, 1959); Kenneth Boulding, *The Organizational Revolution* (New York, 1953); J. K. Galbraith, *American Capitalism* (Boston, 1956).

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becomes a superorganization with final power.[3]

Absolute amounts of power would not be decisive in determining organizational change, however, because of strategy considerations. We may define strategy as the efficient use of power. Clearly, the outcome of contests between organizations will depend upon strategy as well as power.

Power will normally be influenced by an organization's functions and the kind of power it attempts to acquire or has lost, which suggests some principle of diminishing utility of power types; thus, organizations are probably most vulnerable to the types of power they are attempting to acquire. Moreover, organizations will be more vulnerable to moral power if they have some reason to appeal to third parties. While the parties immediately involved in a conflict will make their decisions on economic, political, or physical grounds, third parties will almost always judge the conflict on moral grounds. Thus, organizations which lose moral power will lose the support of third parties. Time is an important factor influencing the use of power. In the short run, physical and economic power are more potent than moral considerations. Moral power is less effective in the short run because of the aforementioned tendency for the primary parties to respond to other interests and justify their actions on moral grounds. However, moral power is likely to become more important in the long run when third parties are likely to take action (honor picket lines, vote, serve on juries, boycott, and so forth) which will influence the primary parties.

An organization's vulnerability to moral power would also seem to be influenced by its size and conspicuousness. The more conspicuous an organization, the more vulnerable it would appear to be to moral pressure, other things equal.

Finally, we shall see that the structure of an organization is also important, because power is channeled to decision-makers through organizational structures.

II

This conceptual framework can be clarified by applying

[3] For discussions of the relationship between governments and the economy, see Anthony Downs, *An Economic Theory of Democracy* (New York, 1957) and Robert A. Dahl and Charles E. Lindblom, *Politics, Economics and Welfare* (New York, 1952).

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it to racial discrimination by unions. Unions have incurred increasing criticism in recent years for their racial practices, and this is generally recognized as one of the American labor movement's most important unsolved problems. Moreover, practically every top labor leader is committed to an anti-discrimination policy; furthermore, only one AFL-CIO union—the Brotherhood of Locomotive Firemen (BLF)—still has a race bar in its constitution, and AFL-CIO President George Meany assures us that the BLF will remove its race bar or be expelled from the federation. In addition, twenty states and every federal administration since the New Deal have adopted policies making racial discrimination by unions contrary to public policy. The persistence of union racial discrimination in spite of these policies against it raises a number of important policy questions: Can the labor movement overcome discrimination in its own ranks? What kind of power does the federation have to deal with this problem and has it used the power available to it? What powers must governmental and other organizations use to reduce racial discrimination by unions? What strategy and tactics are most likely to change the practices of different kinds of unions?

Unions have the power to influence economic opportunities for minority groups through their control of apprenticeship training, referral systems, hiring, seniority systems (which control advancement and transfer in unionized plants), and other practices which affect wages, hours, working conditions, and employment opportunities. While few union leaders could successfully deny that unions have caused and perpetuated existing patterns of racial discrimination, these patterns are not produced entirely by unions, but also by cultural patterns in the Negro community, employer hiring practices, inadequate education and training of Negroes, and intractable historical employment patterns. Moreover, it must also be recognized that unions have been responsible for some measures which increase the economic opportunities for Negroes, such as: insisting on seniority in promotion, transfer, and layoff, which gives Negroes contractual protection they would not have in the absence of unions (though Negroes are much more likely to be laid off during recessions than whites, it is frequently because their recent commitment

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to the industrial work force gives them less seniority; there is evidence that Negroes have been able to retain their proportions in industries and companies which are unionized and where Negroes have a long history of employment); working to abolish wage discrimination through collective bargaining and through such agencies as the War Labor Board; including non-discrimination clauses in contracts with employers; promoting internal education programs designed to reduce discrimination against minority groups; and actively supporting the FEP laws which cover over ninety per cent of the non-white population outside the South—the AFL-CIO, like its predecessors, the CIO and the AFL, is on record in favor of a federal FEPC.

Nevertheless, it is also true that unions, like other institutions in our society, have exaggerated their equalitarian racial policies for public relations purposes and engage in a variety of practices which limit economic opportunities for minority groups.

An important precondition to changing union racial practices is raising the priority of the problem in the organization's operational scale; we assume, of course, that union racial policies do not change unless there are some pressures for change. One of the reasons labor unions declare against discrimination, while permitting it to continue, is that equalitarian racial practices take lower priority than other objectives facing the union and its leaders. However, when other basic motives (like the achievement of political goals, getting re-elected, building strike unity, or organizing a bloc of unorganized workers) are threatened by the continuation of discrimination, unions can be expected to take action against the discriminatory practices. One objective of organizations like the Negro American Labor Council and the National Association for the Advancement of Colored People has been to raise the priority of anti-discrimination objectives through publicity, outside pressures, the promotion of anti-discrimination laws, and other tactics.

Experience also demonstrates that problems are not solved by changing the attitudes of union leaders; attitudes are not unimportant, but they merely determine the extent to which a leader will strain to accomplish as much as possible within

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the power constraints imposed upon him. The real function of public policy must therefore be to apply the correct amounts of power to unions and their leaders to effect the desired change.

It is widely assumed, for example, that unions will respond to moral pressures brought to bear on them through publicity (public hearings, recommendations of fact-finding boards, public statements by prominent officials, and so forth). According to our conceptual framework, however, moral pressure is more effective against the AFL-CIO and intermediate federations than against national or local organizations. The federation's vulnerability to charges of immoral conduct is due partly to the fact that its functions are different from those of national and local organizations. The federation is mainly a public relations organization; it is the keeper of the labor movement's conscience and seeks to influence legislation and perform other functions in the interest of organized labor. In order to accomplish these objectives, the AFL-CIO must appeal to non-labor groups, including Negroes, and hence must be concerned with its public moral image. Moreover, the federation is the most conspicuous part of the labor movement and there is a direct relationship between conspicuousness and vulnerability to moral pressures.

If this is true, and if the AFL-CIO is really sincere in its public declarations, why then does it not vigorously enforce its policies against offending affiliates? In order to answer this question we must understand the extent to which local and national unions are vulnerable to the kinds of power that the federation has over them. Since the AFL-CIO is composed largely of autonomous national unions, the federation's main power over an affiliate is moral suasion and its ability to resolve jurisdictional disputes between the nationals. While there is some evidence that national union leaders attempt to keep in the good graces of federation officers in order to be the beneficiaries of any political favors the latter might be able to bestow, or secure any help AFL-CIO officials might give in jurisdictional dispute cases, these factors would appear to be of only marginal significance in the internal decision-making processes of most national unions.

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It might be argued, however, that while the AFL-CIO expelled unions for corruption and the CIO expelled nine unions for being communist-dominated, the federation has refused to expel unions in order to enforce its equalitarian racial policies. Does this mean that the AFL-CIO is insincere about its racial position? Not necessarily. It does perhaps mean that in structuring its objectives the federation places other goals, such as internal cohesion, ahead of enforcing its racial policies. However, there are other differences between the civil rights problem and the communist and corruption problems. First, the public and Congress have been much less critical of union racial practices than of communist and racketeer infiltration; indeed, a sizable bloc of Senators and Congressmen have blocked efforts to outlaw discrimination by unions and other organizations. Second, racial discrimination is practiced mainly by the membership and at the local level, whereas communists and racketeers have been in leadership positions. Since national union leaders have generally expressed a willingness to comply with the federation's racial policy, AFL-CIO officers have argued that their expulsion would be unwise because there is less likelihood that discrimination would be removed if these unions were expelled than if they remained within the federation.

The record seems to show that while some national unions are more vulnerable to moral pressure than others, national unions are generally more sensitive to economic or political pressures in the short run than they are to moral pressures. This is so because national unions are mainly collective bargaining organizations and thus are primarily motivated by economic rather than political objectives. This is also one of the reasons "moral restraint" by unions cannot be relied upon to implement national wage policies. However, if the union has broad social objectives, it will be more concerned with its moral image than if its objectives are purely economic. This is one reason industrial unions are more likely than craft organizations to adopt equalitarian racial policies. Factors likely to cause national organizations to adopt equalitarian policies include: (1) large blocs of Negro workers whom the union wants to organize; (2) large blocs of

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Negro members, who might be important in internal union politics; (3) large numbers of Negroes competing in the trade who are not in unions; (4) the adoption of equalitarian racial policies by a rival faction within the union or by a rival union, as was the case with communist factions and communist-led unions; (5) the need for public support, to achieve political objectives, for example; and (6) the loss or threatened loss of collective bargaining or union security advantages because of discriminatory practices. This was particularly important in causing railroad unions to drop their racial bars after the state FEP laws were passed and the Railway Labor Act was amended in 1951 to permit the union shop only where all workers in the bargaining units had equal access to union membership.

Within the union hierarchy, local unions have been the most impervious to moral pressures and remain the main loci of racial discrimination. This is particularly true of craft unions in the building trades and on the railroads, where many locals bar Negroes from membership and discriminate against them in job opportunities, usually through informal means. Discrimination can be accomplished in a variety of ways, including: agreements not to sponsor Negroes for membership; refusal to admit Negroes into apprenticeship programs; refusal to accept applications from Negroes or simply ignoring those applications; general "understandings" to vote against Negroes if they are proposed for membership (for example, three members of a Railroad Trainmen or Railway Clerks' lodge may bar an applicant for membership); refusal of journeyman status to Negroes through examinations which either are not given to whites or are rigged so that colored workers cannot pass them; and by exerting political pressure on governmental licensing agencies to see to it that Negroes fail the tests.

Local unions have a variety of motives for discriminating against Negroes and other minorities. Our conceptual framework would lead us to expect that local unions continue discrimination partly because they have narrow economic objectives and are rarely interested in appealing to third parties for support. Indeed, many craft locals have monopoly and nepotic motives for excluding all applicants

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for membership other than relatives, in which case Negroes are discriminated against along with all others not in the favored group.

It is, however, difficult to generalize about the unions which bar Negroes from membership. They are not restricted to any particular geographical area, because there are actually stronger bars against Negroes in some locals of the same unions in the non-South than in their counterparts in the South, particularly in trades like the bricklayers', hod-carriers', common laborers', bartenders', waiters', and service employees' where Negroes have a long tradition in the South and are excluded in Northern or Western locals.

While some craft unions have egalitarian racial policies and some industrial union locals have refused to admit Negroes to membership, as a general rule the unions which practice exclusion are craft organizations. The members of craft locals have the ability to exclude Negroes from membership and from the trade if they control the labor supply. Industrial locals, on the other hand are forced to organize workers hired by employers, while craft unions in many cases determine whom they hire. In addition, craft unions at the local level consider it to their advantage to exclude workers while industrial unions consider it to their advantage to organize extensively.

However, these factors are not sufficient to identify the general character of excluding unions; other considerations also apply. Because of the egalitarian trend in race relations, older unions, other things being equal, seem more likely to exclude minorities than newer unions; some unions were originally fraternal organizations at a time when it was not considered proper to have fraternal relations with Negroes; in many cases employers determine hiring policies and therefore decide whether Negroes are to be hired; whites are particularly likely to attempt to exclude Negroes from certain high-status jobs like airline pilots, stock wranglers, locomotive engineers, and white collar and supervisory jobs; and, in some cases, local unions exclude Negroes because of internal political considerations which give racists the balance of power. These are the factors which must be overcome in changing union racial practices, and it is obvious that their

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multiplicity makes it unlikely that any single strategy or approach will succeed in solving this problem. The intransigence of local union racial practices produced by the foregoing factors can be better demonstrated by some examples.

III

One of the most celebrated cases of racial discrimination by a local union occurred in Cleveland, Ohio, where Local 38 of the International Brotherhood of Electrical Workers (IBEW) defied efforts by Negro electricians to get into the union over a period of forty years, despite widespread publicity and moral condemnation.[4] Local 38's power, like that of many craft locals, was based on its control of the supply of skilled workers. Indeed, an electrical contractor had great difficulty operating in Cleveland without Local 38's approval, an arrangement which was apparently quite acceptable to those contractors already approved by the union. Local 38's constitution required electrical contractors to be "certified" by the local in order to hire union electricians, and in order to be certified a contractor was required to serve two years as a journeyman—which normally meant he must have been a member of the union for two years. Craft unions are also strengthened by the fact that union members normally will not work with non-union men. Since Negroes were barred from Local 38 and could not work on union jobs, they could not get certified by the union. Negroes could operate as contractors, however, if they passed a city licensing examination permitting them to vouch for the work of their electricians; union electricians did not have to pass the city examination in order to vouch for the work of their employees. But since they could not hire union electricians, colored contractors were restricted to non-union work—usually in Negro neighborhoods. Moreover, there was apparently an "understanding" in Cleveland that a white electrician could not work for a colored contractor or a Negro electrician for a white contractor.

Negroes in Cleveland started agitating in 1917 to break

[4] Material for the following was derived mainly from personal interviews. For further discussion of union racial practices, see Ray Marshall, "Some Factors Influencing Union Racial Practices," *Proceedings* of the Industrial Relations Research Association, 1961, 104–119; and *Idem*, "Union Racial Problems in the South," *Industrial Relations*, I (1959), 117–128.

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Local 38's restrictions on their economic opportunities. In 1947 Negro electricians formed a club to bring action before various labor and governmental organizations to obtain relief. The club solicited the aid of international union officers, including IBEW President Dan Tracy and Vice President (now President) Gordon Freeman. These early efforts ended in failure, however, when a business agent who was disposed to help the Negro electricians drowned in Lake Erie and Dan Tracy, who had promised to do what he could to get Negroes admitted to the union, retired as President of the IBEW. These failures caused Negroes to turn to legal action as a means of changing the union's practices.

In 1955 charges were filed against Local 38 before Cleveland's Community Relations Board, which found the local guilty of racial discrimination; but, in spite of widespread adverse publicity and the efforts of Mayor Anthony Celebrezze (later Secretary of Health, Education, and Welfare), the union steadfastly refused to admit a Negro to membership. After the union ignored the CRB's ruling, as well as vigorous public criticism which focused national attention on the union's practices, the case was referred to the AFL-CIO Civil Rights Department and the President's Committee on Government Contracts. This case went to the formal hearing stage of the AFL-CIO civil rights machinery after conciliatory efforts by IBEW President Freeman, AFL-CIO Civil Rights Committee Chairman James B. Carey, and AFL-CIO President George Meany failed to get the local to relent. Finally, Local 38 admitted three Negroes to membership on the last day of June 1957, after President Meany told the local to admit the Negroes by July 1 or lose its charter. The local showed its continued defiance, however, by refusing to admit the man who filed the complaint with the Community Relations Board.

President Meany, the international union, the AFL-CIO Civil Rights Committee, the President's Committee on Government Contracts, and numerous outside individuals and agencies were even less successful in getting Negroes admitted to IBEW Local 26 in Washington, D. C. Despite the efforts of President Freeman and IBEW Secretary Joseph Keenan, who served on the AFL-CIO Civil Rights Committee, AFL-CIO officers admitted in December 1958 that all of

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their efforts to break the local's racial barrier had failed. Even before the AFL-CIO Civil Rights Committee gave up on this case, however, President Meany had attempted a novel approach to this embarrasing problem: he offered to recruit non-union Negro electricians if the President's Committee on Government Contracts (PCGC) would require the government contractor on a public housing project to hire them. While these developments focused public attention on the building trades and caused many high-ranking building trades officials to pledge to the PCGC that they would take measures to "do everything within their power to immediately correct any incidents of discrimination in employment or in apprenticeship," [5] none of these officials had sufficient economic power to break the resistance of Local 26. The union's strength lies mainly in its control of the supply of skilled electricians, so President Meany and various civil rights organizations were almost completely unsuccessful in recruiting Negro electricians. A few Negro electricians were found, but they could not do the heavy conduit work without which the job could not proceed to completion. The electrical needs of other federal projects in the Washington area were projected and attempts were made to secure needed electricians from other areas, but the only action that had been taken in this case by the spring of 1962 was the award of a work permit to one Negro electrician on federal office building number 6, though he was not admitted to the union. In 1963, however, two Negro apprentices were accepted by the local.

Connecticut adopted an approach to IBEW Local 35 in Hartford that was more effective. The first case to go to public hearing before the Connecticut Civil Rights Commission involved Local 35's refusal to admit qualified Negroes to membership. The commission's investigations disclosed that of four whites admitted to the local, two had applied after the complainants, that the local had never admitted a Negro, and that on one occasion a newly unionized company had transferred a Negro electrician to the janitor classification to

[5] Joint wire from the Building and Construction Trades Department, AFL-CIO to Richard Nixon, George Meany, and James Mitchell, February 26, 1960. (A copy of this wire was made available to the author of this article by the Civil Rights Department of the AFL-CIO.)

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avoid embarrassing Local 35. It was also found that while there was supposed to have been a joint apprenticeship committee, it was apparently inoperative and the local followed no consistent admission policy except racial exclusion. Local 35 argued that it did not violate the law since its admission policies discriminated against all races alike.

The Civil Rights Commission was not impressed by the union's arguments, however, and ordered it to admit the Negroes. On appeal by the local, the commission's order was upheld by the Connecticut Superior Court and the Supreme Court of Errors.[6] While the union defied all of these legal agencies and the force of public opinion by voting to reject the Negro applicants, despite a court order to accept them, it quickly capitulated when it was fined $2,000 and $500 for each week it remained in contempt of court.[7]

Thus, these experiences suggest that economic sanctions are likely to be more effective than moral pressures in dealing with recalcitrant local unions in the short run. In the long run, however, local unions of the IBEW, Plumbers, and other organizations with widely publicized examples of racial discrimination, will find their other powers reduced because they have lost moral power. There is already evidence that in the Electricians and Plumbers cases civil rights agencies throughout the country are subjecting locals of those organizations to careful scrutiny because of the publicity given the Cleveland, Hartford, Washington, and other cases. Thus, in the long run these unions will be forced to abolish their discriminatory practices or face the loss of legal immunities and privileges they now enjoy.

IV

Since the main problem of racial discrimination is normally at the local level, implementation of public policy will frequently depend upon the power relations between local and national unions. In this connection, some of the factors conditioning national-local power relations include:

[6] 18 Connecticut Supplement, 125–127; XVIII *Connecticut Law Journal*, 2; IBEW Local 35 v. Commission on Civil Rights, Conn. Supreme Court of Errors, October Term, 1953.

[7] IBEW Local 35 v. Commission on Civil Rights, Superior Court, Hartford County, Conn., File No. 90352, March 26, 1954.

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(1) *The scope of collective bargaining.* If the national union is the bargaining agent, and if bargaining is on a national basis, the national union will have more power over its affiliates because locals would lose bargaining rights if they were expelled from the national. Nationals are also strengthened when their constitutions require national officers to sign all contracts before they become effective.

(2) *The scope of the market.* Local bargaining limits the international's control over the local; in the construction industry, for instance, locals are relatively autonomous because the market is local in nature.

(3) *Local labor market conditions.* The power of the national is strengthened when local union members enjoy high wages relative to those prevailing in their communities. Moreover, during periods of full employment, there will be less resistance from local white members to equal employment opportunities for Negroes.

(4) *The employer's position.* If employers have some reason (boycotts, loss of government contracts) to favor equalitarian racial policies, they will sometimes bring pressure on unions to do likewise. If employers and national unions are willing to enforce equalitarian racial practices, local members are rarely able to continue their discriminatory practices.

(5) *The power of the national union.* The national union will be strengthened if it is relatively easy to expel a local or impose a trusteeship on it; it is generally agreed that trusteeships would normally be better weapons against locals than expulsion. A number of national unions have taken advantage of trusteeships to correct abuses by local unions. This, incidentally, applies to other restrictive practices as well as racial discrimination, because national unions are frequently interested in expansion while locals are interested in restricting the work to present members. It is ironic that in union racial practices, those unions which are most democratic in the sense of being controlled by the membership are more likely to be discriminatory than unions with centralized control. There is thus an obvious fallacy in the assumption that public policy can be implemented by making unions more democratic. Moreover, the national will be strengthened if

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it owns the property of the local union, or acquires that property when the local secedes.

(6) *Alternatives to affiliation.* Locals are much less likely to defy national policy if there are no rival unions to which they can secede; this outlet for locals was reduced, but not eliminated, by the AFL-CIO merger.

(7) *Education.* Finally, national organizations might be able to influence local members with effective education programs; experience seems to demonstrate, however, that union education has only limited effects on racial practices because it changes attitudes and not the power positions in which local unions and their leaders find themselves.

In conclusion, the evidence suggests that union policies will be changed only when the priority of the issue is raised within the organization by various pressures. Pressures for change might come from within through internal union politics or pressure on local unions by national organizations or the AFL-CIO, or it might come from outside agencies or the government. In order to affect organizational policy, however, these pressures must be of the right kind to influence the type of union whose policies are under attack.

The evidence also suggests that unions probably will not be able to solve their racial problems without outside pressures, because of the foregoing intra-union power considerations and the low priority unions normally assign racial policies. This realization was undoubtedly behind AFL-CIO President Meany's request for a federal FEPC to help the labor movement solve this problem in its own ranks.

This does not mean, however, that legislation alone can solve the problem of equal employment opportunities for Negroes. The evidence does suggest, though, that legislation can establish a framework that will make it easier to enforce equalitarian policies. Within this framework, implementation will require the cooperation, and sometimes the conflict, of a variety of organizations using appropriate power and strategy.

RAY MARSHALL

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REVIEWS

The Corporate Revolution in America: Economic Reality vs. Economic Theory. By GARDINER C. MEANS. New York, Crowell-Collier Press, 1962.—191 pp. $3.95.

Gardiner Means' books and statements before congressional committees have made known to American readers his very substantial contribution to our economic thinking. The special service of this collection of papers consists in presenting the materials for a sequential picture of his thought as he offered it and argued for it in the course of its development. The result is that the reader has the opportunity to appraise in this setting the forms of statement that are natural to this process, and to make allowance for them, as is required by fairness to an important innovator, without blinding himself to resulting defects of oversimplification and overemphasis. Chronologically, the series dates back to the ultra-brief official summary of his doctoral dissertation (1933), his memorandum to the Secretary of Agriculture (1934), which put the concept of "administered prices" on the map, and the "Roosevelt Revolution," which of course dates from 1933–34, though Means' depiction is dated 1960. With these Means groups his appraisal of the relation of the corporate revolution to economic theory (1957). The remaining papers report statements to congressional committees and addresses delivered in 1960 or thereabouts on various aspects of the problem.

Means' thinking is focused on the concept of the big corporation as dominant and as controlled, not simply by owners, but by a resultant of adaptations between policies aimed at maximizing security values, administrative officialdom, minority stock control, adjustment to the power of organized labor, and other forces of a civic character which require recognition. This leads to questioning the controlling role of profit-maximization as a stimulus to efficiency and guide to pricing. As to prices, there is a twofold classification between those literally determined by putting a supply on a market and letting the demand determine the price that will move it, and administered prices, fixed by the seller and maintained for considerable periods, independent of any but major changes in the balance of supply and demand (but such slow-to-change prices *may* occur in highly competitive industries, such as the automobile industry). Elsewhere, he seems to recognize a third category, of "quoted" prices that are flexibly responsive to market conditions, though not literally *made by*

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supply and demand. To the reviewer, this third category appears important enough to make its earlier omission and continued neglect a real defect.

He pictures "classical" theory (including Marshall) as holding its supremacy down to the Roosevelt revolution, presenting it as an idealized laissez-faire, based on profit-maximizing by atomistic firms, buying labor as they bought material means of production, and tending to equilibrium at full production and full employment. He aims to prove that classical economists, while recognizing the *fact* of big units, did not incorporate its consequences into their theories, which continued to present results originally derived from atomistic assumptions. In this connection he cites Marshall without reference to his *Industry and Trade,* ignores Mitchell, and dismisses the Chamberlin-Robinson theories as "arid." Later he gives these theories more credit for demonstrating results inferior for the economy to those pictured in the "classical" theory. He himself goes farther, charging that administered prices have "destroyed the effective functioning of the economy."

At this point he appears to lean toward price-flexibility as the main remedy for unstable production and employment, but is not prepared to pay the price in atomistic production. He distinguishes demand inflation from administered-price inflation, accepts fiscal-monetary policies as regulators in the field of demand, including restrictions in this field as remedies for demand-inflation; but insists that these restrictive policies, as remedies for administered-price inflation, would generate unemployment, as in 1958, perhaps without limiting excessive prices. Nevertheless, he is "strongly in favor of big business and what it can contribute to our society," accepts the practice of "target returns," but looks to more moderate rates under informal restraints, stemming from accurate information, given adequate publicity. He appears to think of the power to designate a reasonable target return as effective in controlling prices, without formal enforcement.

In view of the numerous variations in specific positions taken, adapted to different specific objectives, addressed to different audiences or representing different stages in the development of his theories, a well organized index would be peculiarly useful as an aid to the reader in putting these variations in their place.

JOHN M. CLARK

NOTE: This review was written during the last illness of Professor Clark, who died on June 27, 1963, in Westport, Connecticut. An appreciation of Professor Clark will appear in a later issue of the QUARTERLY.

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Lord George Germain. By Alan Valentine. London, Oxford University Press, 1962.—vii, 534 pp. $10.10.

Where once biographers thought only of recording the achievements of the great and the good, or, at worst, of the brave and the beautiful, they have now extended their concern to the futile and the foolish. Part of this catholicity no doubt results from the historiographical fact that such subjects have not been "done" and from the historical fact that they often had a great deal to do with national policy and left a vast store of evidence to prove it. Lord George Germain (1716–85) is a case in point. To account for him, Mr. Valentine declares, is difficult; his character was contradictory, his personal testimony sparse, and his capacity for making enemies unmatched. Heightening these barriers is the biographer's dislike, for he does not subscribe to Lytton Strachey's insight that the most interesting books are written by men unsympathetic to their subject.

There can, however, be no denying interest here. What the author does not find in the man he does in the times—and often at much too great length. Pomp and circumstance, the amenities of Knole and Dublin, the triumphs of camp and court get the reader through the first forty years of Lord George's career, a career shot through with arrogance and insolence but not by any means lacking evidence of ability. He hitched his wagon to Pitt's star, helped reconcile Pitt and Newcastle, and in 1757 was rewarded by appointment as Lieutenant-General of Ordnance. More than this, he escaped assignment to that graveyard of military reputations, America, and despite suspicion as to his ability and courage, gained command of the British troops in Germany the following year. Then the man who had gone up like a rocket came down like the stick. His conduct at Minden in withholding the British cavalry at the very instant when the French army might have been destroyed led him straight to the court martial. He was lucky to escape execution; Byng had not.

Military disgrace and political exile withered neither Lord George's egotism nor his ambition, and the factionalism of contemporary politics facilitated the return of one whose social status, if not abilities, found him allies. Moreover, his speeches in Parliament were nothing if not positive. In 1765 Rockingham restored him to the Privy Council, and though his term was short-lived it not only established his right to hold office but put him back in politics; he became a man of influence and by 1767 was again recognized as one having a future. Soon America gave him a political opportunity; early and late he denounced the

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rebellious "peasants" who were questioning parliamentary authority. Speech by speech he moved closer to office, though not without the suspicion and reservation of many, and in November 1775 became Secretary of State for the Colonies. His private affairs meanwhile had kept pace with political fortune, for in 1769 he inherited the vast properties of his fairy godmother—some suspected a closer relation—Lady Betty Germain, not merely the properties but the name. Lord George Sackville disappeared, by act of Parliament, and Lord George Germain reigned in his stead.

The metamorphosis, political and personal, by no means reduced distrust of the man or his abilities. Why indeed should it? The new secretary was still the old Lieutenant-General. He quickly elevated the status of what had been an office inferior to the two other secretaryships, taking advantage of North's weakness, royal support, and ministerial flux. He directed the war, and as many anticipated it went badly. Over-confident, under-informed, arbitrary, he invited disaster—and it came. His enemies found it ridiculously easy to charge him with every shortcoming, even the encouragement of Indian atrocities. Not until the end of North's ministry, however, did he step down, and even then his refusal to acknowledge the loss of the colonies gained him the royal reward of a viscountcy.

All this and much more is to be found in the present biography—and in such detail as to exalt the irrelevant and exhaust the reader. It is in some measure Namierism gone to seed, and more care could have at once caught the misprints and eliminated those phrases that the author must have thought particularly apt. Nevertheless, even though the person of Lord George Germain warranted fewer pages, the patient reader can learn a great deal about contemporary politics and administration and the loss of the colonies. The value of the book is less the avowed subject than the light, flickering rather than bright, it throws on the world—and to some extent it was *the* world—in which he moved.

Charles F. Mullett

University of Missouri

Smuts, 1. The Sanguine Years, 1870–1919 (Vol. I). By W. K. Hancock. New York, Cambridge University Press, 1962—xii, 618 pp. $10.00.

Smuts was an important figure in the history of his country, of the British Commonwealth, and of international organization. He divided South African problems into the short-term,

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soluble one of conflict among South African white men on the one hand, and the long-term and far less tractable ones, collectively known as the "Native problem," on the other. The former problem was urgent; the latter, though "the" problem in Smuts' view even as a student (p. 30), could be delayed. But it filled him with dismay: "When I consider the political future of the natives in South Africa [he wrote in 1906] I must say that I look into shadows and darkness; and then I feel inclined to shift the intolerable burden of solving that sphinx problem to the ampler shoulders and stronger brains of the future" (p. 221).

Smuts' reputation has inevitably suffered through his defeat in the general election of 1948 and the rapid decline in South Africa's reputation since 1945; he appears to have failed in relation to both problems. This decline in esteem has been the result of rapid political change, not of scholarly examination of evidence. A biography by a distinguished historian describing a notable career in context is welcome. Furthermore, four volumes of documents from the Smuts Archive covering the period 1870–1919 are already in press.

By 1919 the pattern of South African politics had emerged; it was already clear that a significant proportion of the Afrikaner community was forsaking the leadership of Smuts and his chief, Louis Botha. With the benefit of hindsight it might be suggested that this was due to a lack of an effective set of domestic policies, particularly in the field of equal language rights, and the rehabilitation of poor whites. Moreover, Professor Hancock shows that Smuts and Botha between them played a crucial part in fighting for the political independence of South Africa within the Empire; it is the more remarkable that they failed to make effective political use of it within South Africa, and that it was their enemy, General Hertzog, who has gone down as the effective champion of dominion autonomy.

What of the long-term problem? As the author emphasizes, Smuts was a product of the "sanguine years." His "evolutionary optimism" (p. 31) was well developed by the end of his student days. It seems to have been the basis of questionable political judgment in relation to the loyalties of his own people. In positions of power almost without a break from the age of twenty-eight, he became more of a minister than a politician, preoccupied with the problems of the "Center." In common with men like Milner, Bryce, and Selborne, he was opposed to politics for the Natives and, because the non-white majority was not yet mobilized, it was possible and tempting to postpone dealing with the problem. Within four years of Union, the outbreak of the

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First World War made the issue of relations with Great Britain a major one in South Africa once more. "Conciliation" became, in fact, just as much a long-term problem as that of the political relations with the non-white majority, and the "ampler shoulders of the future" came to have a precise meaning. Smuts, it seems, was willing to wait for the development of a changed attitude among his constituents. Though he confidently expected such a change in 1906 (p. 221), he had not, by 1919, taken steps to hasten its coming.

When considered in context, his achievements are staggering. He was the real creator of the South African Union, and secured the official acceptance of the name "British Commonwealth of Nations." In the Imperial War Cabinet he tackled one major problem after another. And, it should be emphasized, in spite of what may be regarded as his evasive empiricism on the Native problem at home, he was remarkably free of racial prejudice. He supported the grant of commissions to Indians in the Indian Army, even if this entailed the authority of Indians over white men (p. 345). Moreover, he insisted, publicly, that the Commonwealth ought not to become a white man's club. In a farewell message to the British people in July 1919 he wrote: "*On progress in India and the other Imperial Dependencies. . . .* It is a task to be approached in an open mind and with the fixed determination here too to realize those principles of freedom and self-government without which this Empire cannot exist in the new time" (p. 547).

Sir Keith's is the first scholarly biography and the first to be based on extensive use of private as well as public documents. It is a notable work. But it may be asked whether the book has not been based too closely on the Smuts Archive, clearly a major collection, set up in the process of writing this biography. Political scientists will find too little of Smuts as a public figure, on the hustings, and as a party strategist, particularly in the formative years, 1902–14. There is, for example, little on Smuts' role in the creation of *Het Volk* in 1905, a crucial event in the political history of South Africa. Furthermore, Sir Keith raises, but does not answer, a series of questions about relations between Smuts and his colleagues in the Imperial War Cabinet. There is some description of conflict with Lloyd George, but what of Smuts' relations with Milner, so recently his antagonist in South Africa? Surely they were on different sides in Smuts' campaign to defeat the imperial federationists? "I cannot and never shall forget," wrote Smuts in 1917 with this issue in mind, "that we were free republics" (p. 437). Finally, all too little is given of Smuts' in-

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fluence on the policies of the South African government while he was overseas.

To raise such questions is to draw attention to work remaining to be done. Smuts did so much at any one time that there are difficult questions of emphasis and Sir Keith has explicitly drawn attention to many questions requiring monographic treatment. It is to be hoped that historians will hasten to make use of the Smuts Archive and that volume II will not be long delayed.

JEFFREY BUTLER

BOSTON UNIVERSITY

Alexander Hamilton: The National Adventure, 1788–1804. By BROADUS MITCHELL. New York, The Macmillan Company, 1962.—viii, 807 pp. $12.50.

Broadus Mitchell's account of the life of Alexander Hamilton reflects contemporary concern over the relation between private enterprise and government power to promote the general welfare. Hamilton, as portrayed in the second volume of Professor Mitchell's study, steps forth as the progenitor of the omnicompetent state, a figure more congenial to the modern American liberal than the Jefferson of individualism and civil liberties courted so assiduously in the past. Hamilton's statecraft, the author suggests, may be studied with profit by leaders of underdeveloped new states, for his ultimate goal for mankind was the life of abundance for all through increasing production and wealth. The key to abundance in Hamilton's scheme was the state as promoter of social organization, cooperation, and discipline. Such an interpretation is not altogether new, but what is new and questionable is an emphasis upon Hamilton as champion of the many rather than the few. We have moved a long way from the Hamilton of Parrington and Bowers.

The Republicans in opposing Hamilton's planning are seen as misguided and petty, their views so naive as to be irrelevant to the facts of economic life. Professor Mitchell makes a strong case for concluding that Hamilton's was the dominant mind and spirit of the decade between 1788 and 1798. Rarely has Washington's role appeared less significant or those of Madison and Jefferson more opportunistic. As a case in point, Jefferson's insistence that he was poorly informed on the implications of the assumption plan and that Hamilton moved too fast for a man just off the boat should not be countenanced, Mitchell insists, for Jefferson was a good nationalist in 1790 and is guilty of misrepresentation. While this may be the case, the Hamilton

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manuscripts upon which this study is based reveal that Hamilton was usually in the right except for his unfortunate behavior in 1800, a fall from grace accounted for by physical and nervous exhaustion resulting from attempts to build a national army. What Professor Mitchell, in my opinion, does not adequately account for is why Jefferson's victory in 1800 should be, as he admits, counted among our national blessings or why Hamilton so suddenly deserted what in this view were the ethics and forthrightness of a lifetime, despite exhaustion.

The basic objection to this work, therefore, is that, excellent as it is in detailing Hamilton's role in finance, the portrait of Hamilton as a political leader and personality appears incomplete and suffers by comparison with John C. Miller's recent biography. A clue to the shortcomings of this study may be found in searching footnotes and bibliography. Far too little attention has been given to the papers of Hamilton's opponents or to recent secondary works of importance. The Republican position, as well as that taken by Adams' partisans, is not given a fair hearing. Advocates of the Bank appear as realistic, practical men, calmly debating the issues, while opponents such as Madison, one of the villains of the piece, are here seen as insincere, bombastic, or lacking in a "sense of history" (pp. 95–96). "Enmity to Hamilton bespoke a willingness to risk success of the government itself. . . . Madison had fallen away from his own right convictions, and thus had betrayed himself as well as his former friends" (p. 219). Jefferson was guilty of "immorality" in proposing to transfer the French debt to Dutch bankers (p. 213); gave "perilous" advice when he suggested holding up ratification of the Constitution until a bill of rights had been adopted; ". . . let his fancy wander dangerously" (p. 214); and was bound up in ". . . the cruel contradiction of a philosopher writing 'free and equal' and calling a chattel slave to bring the blotting sand. Hamilton . . . cherished liberty the more by furnishing the citizen with facilities for its enjoyment" (pp. 218–219).

Mitchell's partisanship leads him to justify Hamilton's invasions of Jefferson's sphere of responsibility on the grounds that, after all, Hamilton was a greater realist, and cabinet lines were new. Informal and revealing talks with George Hammond did not really undermine the administration's case against British spoliations or the state paper drawn up by Jefferson and approved by the president, because British manuscripts reveal that the Grenville Ministry spent hours studying the document. Capitulation by the House in its attempt to block appropriations

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for augmenting the Jay treaty is attributed to the impact of Hamilton's masterful *Camillus* series rather than to western petitions. The Pinckney treaty in this connection is not mentioned.

What is missing, finally, is balanced assessment, an account of those tensions within Hamilton which led him to build a firm foundation for American sovereignty while at the same time doubting that the whole experiment could be extended upon a popular base. Missing from the Mitchell study is development of that side of Hamilton which led him to a contempt of public opinion beyond what most Federalists expressed, which led him to move so ardently upon the Whiskey Rebellion and the miserable "rebellion" of Fries and his few followers in 1799, which led him to excoriate Adams for making so little use of the Alien Acts and to cry out against the death of Washington, because that associate of many years had been an "aegis very necessary to me." Such important recent works as those of Cunningham, Dauer, Ferguson, and Miller appear nowhere in notes or bibliography. Among these re-evaluations of the Federalist period Professor Mitchell's *Hamilton* takes its place, somewhat isolated and aloof.

STEPHEN G. KURTZ

WABASH COLLEGE

The Production and Distribution of Knowledge in the United States. By FRITZ MACHLUP. Princeton, Princeton University Press, 1962.—xix, 416 pp. $7.50.

Some part of Professor Machlup's high reputation as an economic theorist is attributable to his unusual gift for taxonomy. In the past he has applied this talent to such topics as market organization, marginal concepts, and foreign trade multipliers. The challenge which Machlup accepted in this volume was the intricate definition, measurement, and interpretation of those activities which can appropriately be labeled either the production or the distribution of knowledge. Thus it is that not the least interesting portions of a fascinating study are the three opening chapters which grapple with the classificatory difficulties of separating "knowledge" from less elusive products. In the end the author chooses a broad definition which he summarizes in this fashion: "We decided . . . to understand by 'knowledge-production' any human or human-induced activity effectively designed to create, alter, or confirm in a human mind —one's own or anyone else's—a meaningful apperception, awareness, cognizance, or consciousness of whatever it may be." This unacademic and unsnobbish definition embraces education in its

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usual habitats—schools and colleges, but also education in the home, training on the job, education in the church, education in the armed services, and vocational training in commercial schools. The definition extends to the media of communication and to all types of research and development whether performed by government, industry, or university. And although the adjective "meaningful" in Machlup's definition might imply the contrary, he defends the inclusion of advertising as well, for the commercial message does convey information of a sort to its recipient. All told, thirty groups of activities find a home in the new knowledge industry.

The magnitude of the industry follows from the generality of its definition. In 1958 total expenditures for knowledge amounted to $136,436,000, or some twenty-nine per cent of the gross national product as Machlup defines that concept for his own purposes. By type of product, this sum breaks down into five major divisions:

Education	$60,194	(44.1%)
Research & Development	10,990	(8.1%)
Media of Communication	38,369	(28.1%)
Information machines	8,922	(6.5%)
Information services	17,961	(13.2%)

A second classification identifies the major customers. Government paid for $37,968,000 or 27.8 per cent of the total, business for $42,198,000 or 30.9 per cent, and consumers for the remaining $56,270,000 or 41.3 per cent.

Perhaps the finest portion of this volume is the long virtuosic chapter on education which displays the talents of interpretation and advocacy for which the author is equally famous among his fellows. He offers his usual careful, ingenious collation of the available statistical data. Then he examines closely current investigations of the economic returns to be anticipated from investment in human capital. In his cool judgment, additional investment in education as education is now organized in the United States does not promise higher returns than investment in fixed capital. It turns out, in fact, that Machlup who is a democrat as a taxonomist is an elitist as an analyst of educational policy. He argues that the quality of education would be improved, its cost diminished, and its returns enhanced by reduction of the school leaving age to fourteen and improvement of school and university curricula at all levels. By all odds this is the most persuasively reasoned version of the aristocratic concept of education which I have encountered.

One should not conclude without a word of appreciation.

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Seldom has a pioneer investigation of so complex a topic as a freshly defined industry received so elegant and so fascinating an initial treatment. The book deserves attention for the incisiveness of the argument, the novelty of the definitions, and the freshness of the information which is gathered, sorted, and interpreted.

ROBERT LEKACHMAN

BARNARD COLLEGE

The United States in World Affairs, 1961. Edited by RICHARD P. STEBBINS. New York, Harper and Brothers, 1962.—xi, 431 pp. $6.00.

American Foreign Relations, 1961. Edited by RICHARD P. STEBBINS. New York, Harper and Brothers, 1962.—xx, 525 pp. $6.95.

The year 1961, affirms the latest volume in the Council on Foreign Relations' annual series on *The United States in World Affairs,* witnessed "a definite forward movement" in the achievement of national foreign policy objectives. Yet immediately the study adds that "some doubt must remain as to how far the trend of world events in 1961 furthered the underlying American purpose of preserving and, if possible, extending the area of freedom in human affairs." This ambivalence constitutes the *motif* present in the analysis of American foreign policy toward every major geographical region and global problem for the year encompassed.

Thus, if Soviet emphasis upon "peaceful co-existence" continued to color Western-Russian relations, this was counterbalanced by Khrushchev's endorsement of wars of "national liberation" and of heightened Russian pressure upon Berlin. If the Western allies successfully preserved their position in the face of the latter threat, de Gaulle's determined independence in foreign relations, mounting apprehensions over the adequacy of NATO's defense, and Adenauer's political defeat created continuing stresses within the Atlantic alliance. If Washington was heartened by the lack of support in the United Nations for the Soviet "troika" proposal, it remained deeply concerned about the financial crisis through which the organization was passing and about the combination of opposition and passive resistance displayed by some of its members toward selected UN operations. If the United States continued to expand its economic and cultural contacts with Asian and newly-emergent African countries, official apprehension persisted over the durability of military agreements like SEATO, over the tide of events in South Vietnam,

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over the prospect of "neutralization" for Laos, and over the Communist bloc's cultural-economic offensive throughout the Afro-Asian world. If the year witnessed progressive Arab disenchantment with the Kremlin, it also produced no progress whatever on the vexatious Arab-Israeli dispute or brought any noticeable diminution in Arab resentment toward the United States because of it. And if the "Alliance for Progress" elicited widespread support throughout Latin America, it was not accompanied by equal enthusiasm for requisite governmental "reforms" in the area nor did it appreciably halt the deterioration in American prestige because of growing Soviet influence in Cuba.

Relying heavily upon official and high-quality journalistic sources, this secondary account is valuable both in affording a timely and readable survey of recent American diplomacy and—because it is offered so soon after the events discussed—in recapturing the environment of public opinion which surrounds the process of official decision-making. On nearly every page, the reader is reminded of the altogether pervasive role of public sentiment in the American system. The problem of "neutralism" provides a case in point. Was the determination of a widening circle of countries to remain "uncommitted" in the Cold War ultimately compatible with American foreign policy objectives? The diffuse treatment accorded the question in this volume leaves the issue in doubt, perhaps because both official and public judgments on the question remain uncertain and contradictory. Yet it seems a curious paradox that the neutralist movement—here boldly described as possibly "the key international development of the years around 1961"—should receive relatively little attention from foreign policy officials and from competent authorities evaluating the development of the nation's foreign relations. This phenomenon suggests what would seem the most fruitful avenue for improvement in this series: less rigid adherence to an essentially *geographical* organization of subject matter (and within chapters an at times tedious *chronological* exposition), coupled with more systematic treatment of issues such as "neutralism" which cut across traditional national and regional boundaries.

The collection of *Documents* offered as a companion volume reproduces in full or in part relevant official materials on major diplomatic developments during 1961. Pending the release of still classified materials, this installment joins its predecessors in providing the most useful documentary source available for students of American diplomacy in the modern period.

Cecil V. Crabb, Jr.

Vassar College

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The Public Purse: A Study in Canadian Democracy. By NORMAN WARD. Toronto, University of Toronto Press, 1962.—viii, 334 pp. $6.00.

This is the eleventh in the Government of Canada Series and the second book in it to be written by Professor Ward. Like his former volume, this one deals with the Canadian House of Commons; this time he examines its role as reviewer of public expenditure.

It is a sad tale well told, and adequately confirms the generalization that the Canadian Parliament is dominated by the Cabinet. In the field of public finance Parliament's role has oscillated between passive disinterest and selective concern. The Public Accounts Committee, the major parliamentary agent for financial control, has always lacked a permanent professional staff, so its activities have changed with its membership. Through the 1870's the committee uncovered considerable wrongdoing, reported it, and went hunting for more without following up its discoveries. It did succeed in having the office of Auditor General created in 1878, and his annual report became the major guide for the committee. However, instead of following this pathfinder through the morass of government finance, the committee preferred to engage in scandal-hunting forays or to allow the government majority to frustrate its investigations. This left the cantankerous Auditor General, J. L. McDougall, fulminating helplessly against government, committee, and public servants alike.

The First World War saw the executive power further strengthened. The committee languished, and remained quiescent throughout the inter-bellum period. The poor Auditor General, plagued with an incompetent staff, had to endure the centralization of the financial administration of the government in the Department of Finance and the depreciation of his administrative functions. The Public Accounts Committee gave up the ghost and virtually ceased to function. There was a slight revival of the committee during the Second World War under the Auditor Generalship of Watson Sellar, and the coming of peace saw an improvement in the committee's work. In 1958 the Conservatives put an opposition chairman over the committee and it responded with a more vigorous performance, although it still kept its taste for scandal and publicity.

Parliament's scrutiny over the granting of supply is just as slack and intermittent as its review of the accounts. Large sums are voted without debate and great use is made of supplementary

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estimates and Governor General's warrants. The addition of a committee on estimates in 1955 has cast a small light into a great darkness, but it was hobbled by having, as a member of the committee, the minister in charge of the department being examined. However, lacking in a research staff, and with no clear idea of its purpose, the committee has merely unearthed information and then done nothing with it. Its bias has been in favor of spending rather than economy, and it has kept reiterating its sympathy with citizens "engaged in venture enterprises."

Professor Ward reveals the MPs as parochial men acting as clearing houses for material demands, and Parliament as undecided as to what its committees were supposed to do. He suggests that the committees be smaller, that they meet at times in private, that they develop codes of procedure, that they be equipped with expert staffs, and that they follow up their recommendations to a confrontation with the executive, if need be. However, he is aware that the Canadian tradition of executive dominance is deep. He takes heart at the growing interest shown by MPs in parliamentary scrutiny of the executive since 1945.

This is a very good book. With practically no secondary sources to guide him the author has studied the voluminous and wearisome reports and debates with discernment and balance. He has enlivened an inherently dull subject with wit and insight. In explaining Parliament's performance in this special area, he has captured the spirit and tone of Canada's Parliament as no other book has done.

H. G. THORBURN

QUEEN'S UNIVERSITY

Government and Politics in Japan: The Road to Democracy. By JOHN M. MAKI. New York, Frederick A. Praeger, 1962.—xi, 275 pp. $6.00.

Professor Maki seeks to find an answer to the question "of how democracy, a Western-created and Western-developed concept of government and politics, could become rapidly and firmly rooted in a nation that not only had no democratic history and tradition of its own but had developed a modern governmental system of an authoritarian character" (p. 3). Thus he states his conclusion, that present-day Japan is democratic, in the form in which he raises the question. The study, however, is descriptive and analytical, with the conclusion drawn from as well as supported by an examination of the postwar development of the country. The author's premises as to the attributes of a demo-

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cratic system are clearly and concisely stated at the outset, so that the reader has in mind his frame of reference in the analysis of the antecedents of the postwar system of government and politics. His major premise is that democracy exists only where the individual has a guaranteed position in society "without qualifications relating to his particular social, political or economic role in the general community" (p. 5); where government is developed through free elections; and when the government is both representative (of the people) and responsible. He finds these underlying elements lacking in Meiji as well as Tokugawa Japan, although he recognizes that there had been developed representative institutions based on a franchise extended by 1925 to universal male suffrage. Thus "Japan's peaceful democratic revolution" Professor Maki finds to have been "born of a lost war" rather than to have been erected on prewar foundations. "The revolution ran a course fixed by a complex interplay between the occupation forces and the Japanese government and people. It became rooted in Japan because the general social environment turned out to be unexpectedly congenial to democracy" (p. 33). The lost war, however, had a double effect. It did lead to the occupation, but it also made it possible to pick up the development from the past at the point of countermovement and to extend and deepen that development. The new wine of democracy, for example, could be poured into such a familiar receptacle as an elective Diet to which the government could be made responsible. This is not to deny that an important role was played by the occupation in the "democratic revolution." It is, however, possible to overstate the actual creativeness of that role.

The fundamental changes, as the author emphasizes, were not in the erection of new institutions but in the transformation of institutional relationships in the exercise of power and in relationship to the people. Since the text of the new constitution is printed as an appendix, the author properly confines himself to an analysis of its provisions as they bear on democracy. This he undertakes through an examination in successive chapters of its origins and the principles of constitutional government given expression in it; the structure of government erected on the foundation of those principles; the new position of the individual in Japanese society; the "new structure of alignments and relations among social, political, and economic groups" (p. 130), and its governmental and political significance; and the nature and role of the political parties as instruments of the people expressing themselves through elections and in the Diet. Post-independence controversies and present and future problems are then subjected to analysis from the point of view of their sig-

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nificance in stabilizing the democratic system rather than given detailed description. In a concluding chapter the author states concisely the lessons which he feels can be learned from Japan's experience with democracy. These include a word of caution: "The lessons of Japan's experience with democracy cannot be extrapolated into the situations of the new nations of Asia and Africa; they provide only the most general, albeit useful, guidelines for possible new approaches to action and thought regarding the relevance of democracy to them and their problems" (p. 241).

This thoughtful study can be read with profit by the student of Japanese government and politics as well as by those with a less specialized interest in the contemporary scene. Its value is enhanced by the inclusion of a selected bibliography.

HAROLD M. VINACKE

UNIVERSITY OF CINCINNATI

Communist China in Perspective. By A. DOAK BARNETT. New York, Frederick A. Praeger, 1962.—vi, 88 pp. $2.95.

Britain and China. By EVAN LUARD. Baltimore, Md., Johns Hopkins Press, 1962.—256 pp. $5.00.

Although the storm is by no means past, there is in the present period a welcome attempt to see the Chinese revolution not so much as an inexplicable cataclysm but more as part of a great process of change which reaches far beyond China. Mr. Barnett's use of the word "perspective" emphasizes this trend. In a series of lectures delivered under the auspices of the Oreon E. Scott Foundation at Washington University, he has reviewed the origin and development of the Chinese Revolution and considered its future possible outcome. Stressing the important, but neglected, point that the impact of the western world on such societies was itself the prime moving revolutionary impulse, he shows how in this sense the revolution can really be said to have begun in the middle of the nineteenth century. The disastrous defeats suffered by the Manchu dynasty at the hands of very limited Western attacks revealed the inadequacy of the old Chinese order, the backwardness of technology, the self-centered view of the universe, no longer in accordance with facts, and the impotence of the dynasty. This last deficiency, although the immediate cause of the developing revolutionary process, was in fact the least important. In Japan the same failures to adjust to the impact of the West were overcome in spite of the collapse of the Shogun's government. In China, it is perhaps to be regretted that the dynasty did not collapse, but merely decayed.

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A view sometimes expressed by academic historians in China today holds that had the Manchu dynasty been either drastically reformed or replaced, in the Meiji manner, between 1870 and 1880 there might have been a chance that the Chinese Revolution would have taken a different course; but that thereafter it was too late, and the whole train of events which led to the People's Republic could not be avoided. Mr. Barnett does not subscribe to this historical determinism, but he does point out that there are elements of continuity with China's past which help to explain the success of the Chinese Communist party in establishing its rule. One of the most valuable contributions in this thoughtful book is the balanced presentation of these elements of continuity with the more familiar elements of dynamic change.

Mr. Luard, writing the first of the series *Britain in the World Today,* has undertaken a task which confronts the reader with the most striking contrast, that between Britain in China in the nineteenth century and in the second half of the twentieth century. There has been no parallel to this change in any other region; Britain has left India, in the political sense, but remains closely bound to India by ties of commerce, political usage, and friendship. In China all has changed; the dominant, indeed often overbearing, political power, based on sea power, has been replaced by a distant and aloof diplomatic contact. The preponderating commercial position is now vestigial; the great missionary enterprise has been closed down. It is indeed ironical that when the British first sought trade with China they felt frustrated at their inability to deal with the central government of the Emperor, which disdained and repelled all such overtures. Now the individual trader, whom the Manchus tolerated, has been swept out, and trade, still large, is wholly conducted by the central government of China through its own agencies.

Mr. Luard brings out well the point that it was trade, and at bottom nothing but trade, which brought the British to China. To ensure their trade the British were prepared to fight limited wars, to annex ports, exact concessions, and impose "unequal treaties." But they were not interested in the conquest of China and attempted to prevent the partition of the declining empire, for fear that trade rivals would set up monopolistic systems in the parts of the country that fell to them. It was no doubt, as events have proved, a shortsighted policy. British trade, and all the train of Western ideas and arts that followed it, were indeed the seeds of revolution. That revolution must inevitably transform China and sweep away the system which the British had created.

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The truth is that China was always a very far-off and minor preoccupation for the rulers of Britain. Even the trade was only a small percentage of the United Kingdom's total foreign trade, two and a half per cent at the highest, now about 0.7 per cent. British power in the Far East was preponderant only until some local power arose which threatened to oust it. The first such development was the rise of Japan, and when it came to a conflict, Britain, at the extreme end of the world from China, was unable to defend her interests. Now that China herself is the great local power the possibility of any recovery is quite remote.

But in Hong Kong Britain still has an interest in the Chinese world which is in one sense unique. In the mainland leased territories of Hong Kong, Britain and China have a short common frontier, the only land frontier where China and a Western power confront each other across a barbed wire fence. Yet it has remained since the People's Republic was established one of the least troubled spots in the whole Far East. In the Korean War British troops sailed from Hong Kong to fight Chinese troops in that country, Chinese troops who had very probably been transferred from the province adjoining Hong Kong. It made no difference to Hong Kong. But the leased territory must be returned to China in 1998. In forty years Hong Kong must be thus cut in two; it can hardly survive the amputation. Neither party seems preoccupied with this prospect; Hong Kong flourishes and grows, China makes no move to impede its progress, and even, it is said, invests herself in the booming real estate market of the imperialist colony. One of the many merits of Mr. Luard's work is the full examination which he gives to this strange problem of Hong Kong, the one outstanding British interest surviving from the old Far East.

C. P. FITZGERALD

AUSTRALIAN NATIONAL UNIVERSITY

France and Her Eastern Allies, 1919–1925: French-Czechoslovak-Polish Relations from the Paris Peace Conference to Locarno. By PIOTR S. WANDYCZ. Minneapolis, Minn., The University of Minnesota Press, 1962.—ix, 454 pp. $8.50.

The clear espousal of the principle of nationality by the First World War Allies resulted in a radical redrawing of the map of Central Europe where Czechoslovakia and Poland appeared as new sovereign entities. But the war and the peace did not eliminate the problem of power. Among the major victors France strove to extract the greatest possible advantage—future security

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—from the fortunate outcome of the war. But France had to accommodate her wishes to those of others, America and Britain in particular. This situation dominated the peace and in large measure set its final shape. Britain especially looked upon the settlement and the future in the classical context of balance of power relations: Germany must not be unduly diminished lest France emerge in a position of too great power on the continent.

Under the circumstances, "to fit France's eastern policy into the framework of the Anglo-French Entente became a crucial problem" (p. 48). The settlement of the frontier between Poland and Germany turned into an Anglo-French contest—Lloyd George had very little sympathy for Poland—and that of Poland's eastern border was even more difficult; France would not altogether abandon the hope that a new Russia might some day return to the pre-1914 orientation. France's Polish policy was ambivalent. Czechoslovakia had an easier time, the historical boundaries of the Kingdom of Bohemia being retained unaltered.

Nevertheless the common desire to preserve the fruits of victory created a strong and authentic bond between France, Czechoslovakia, and Poland. The *barrière de l'Est,* certainly against Germany, possibly against Russia, was a cardinal tenet of French policy. But the implementation of this principle was anything but simple; the widely accepted picture of French hegemony on the continent dissolves into a tortuous tale which it is the chief merit of this book to document and trace during the first six years of its unfolding.

Only part of that story is here recorded, the focus being, as the title indicates, upon three states alone. Matters were complicated in addition by the difficulties between Poland and Czechoslovakia. The Teschen problem and its settlement, in which Czechoslovakia showed neither generosity nor foresight, early created bitterness between the two. Even more important was the fact of totally divergent attitudes toward Russia; also, Czechoslovakia felt relatively little concern over the German danger, looking upon Hungary as the potentially more serious threat. To manage such a situation would have been difficult at best; France's own uncertainties did not help and the Little Entente was initially anything but pro-French. Beneš did not particularly wish Polish participation in it, showing little interest in Pilsudski's far-reaching federative ideas, while Poland on her side did not renounce the tradition of sympathy for Hungary.

Poincaré's German policy was in a sense successful, but he allowed the fruits of the German surrender to be lost. The Dawes Plan was an Anglo-American victory and the French people them-

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selves repudiated the French Right in 1924; a new orientation was adopted of which Locarno was the expression. The author is very severe on Locarno, presented as something of a machiavellian British scheme to regain control over French policy.

This is a scholarly work, an important and welcome contribution that will serve to clarify and redress often uncritically accepted ideas; Poland, especially in the English-speaking and "liberal" worlds, has had a bad press. The Polish sympathy of the author is clear, but his judgments are neither unfair nor unwarranted. France's difficulties are sympathetically viewed, but the resulting fumbling not exonerated; strictures on the obtuseness of British policy are fully justified. His understanding of Poland's nearly impossible position does not prevent his clearly exposing the mediocre handling of her own affairs, at home no less than in foreign policy. He is critical of the too-great practicality of the Czechs, Beneš being cast in the role of chief villain; yet Beneš is also depicted as the most successful of all the characters in the story, in considerable measure because of personal ability.

One can only hope that Professor Wandycz will give us more of the story, both in dimensions and time, of the troubled domain of Eastern Central Europe between the two World Wars.

RENÉ ALBRECHT-CARRIÉ

BARNARD COLLEGE

The Action Française: Die-hard Reactionaries in Twentieth-Century France. By EDWARD R. TANNENBAUM. New York, John Wiley and Sons, Inc., 1962.—viii, 316 pp. $7.50.

Professor Tannenbaum's book is a welcome addition to the growing literature on the French Right. He shows how the *Action Française* remained the most consistent reactionary formation of the extreme Right from its inception during the Dreyfus Affair to the condemnation of Maurras in 1945. The movement kept united under the spell of a cantankerous and deaf publicist with only moderate talent as an organizer and conspirator, but with an appealing doctrine that had erected into a coherent system the prejudices of people with "a nostalgia for a hypothetical golden age." The doctrine which systematically debunked the ideals of the French Revolution—as well as both the virtues and the weaknesses of the Republics—stood for an authoritarian, elitist, clerical, nationalist, and royalist recipe for social harmony. The followers of Maurras saw in the Vichy regime a satisfactory approximation of their utopia and to this day have not forgiven General de Gaulle for his contribution in shaking

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down the beautiful structure erected under the guidance of their mentor. The Algerian tragedy gave them a new opportunity to hate the man who destroyed another of their illusions. There is a certain paradox in their refusal to recognize that the General's vision of a France united behind a grand design and a monarchical style of government would make quite a presentable substitute to their own nostalgic dream.

The author tells the story of the *Action Française* with talent and in a highly readable prose. He handles with ease a considerable array of primary and secondary sources, though his use of the latter is not always made explicit. As he states it in the preface, his purpose is not to present another version of the history of Rightist political theories, but to show how reactionaries "responded to the world around them and how they justified their behavior." In this he is largely successful. He points out that the *Action Française* appealed to an academic proletariat, the *déclassé* nobility, and a section of the bourgeoisie, people who did not fit into the twentieth-century economic structure but who "believed that it was the revolutionary ideal of mass democracy, not the economic system, that prevented them from preserving their traditional values" (p. 129). Mr. Tannenbaum is at his best describing events and portraying leaders. He is not as successful in his interpretation of the psychology of reactionaries, the subject matter of a final chapter devoid of new insights. He is also somewhat hazy in the criteria he uses to differentiate nationalist from fascist movements. This, however, hardly detracts from the value of a book which, in spanning the whole history of the *Action Française,* captures the spirit of a movement that is specifically French in its provincialism and the rational quality of its escapist dream.

CHARLES A. MICAUD

UNIVERSITY OF DENVER

Soviet Administrative Legality: The Role of the Attorney General's Office. By GLENN G. MORGAN. Stanford, Calif., Stanford University Press, 1962.—x, 281 pp. $6.00.

The Soviet Communist party has trouble with local administrators, and even with intermediate ones who abuse power and bring opprobrium upon the regime at points where the top officials have not decided to risk mass displeasure. To prevent abuse of power the communists reached back into Russian imperial history prior to 1864 to find a function of the Imperial Procurator designed to curb excesses of local authorities. Pro-

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fessor Morgan's admirably documented study traces the evolution of the institution in the hands of the communists from its inception in 1922 to the present.

Morgan concludes that the institution has served its purpose when there have been periods of calm, but that when the communist leadership has conducted campaigns against enemies, the institution has fallen into desuetude. During Stalin's declining years the function became so neglected that after his death a new statute was deemed necessary to restate the procuracy's duty of general supervision, and a course had to be introduced in the law schools to train men for the task.

The most retrogressive years were those of forced collectivization in the early 1930's and those of the war and its aftermath. Since the function is in the same institution that prosecutes, periods of active prosecution result in slighting of the protective function. Morgan suggests that instability is created because the function exists to aid in establishing economic efficiency rather than to protect human rights. In making this comparison he demonstrates that the reason for establishing stability of laws makes a great difference in times of stress. Those who protect citizens from arbitrary officials because it makes for efficient government relax controls more quickly in danger than those who provide protection because it is right to do so. This is, perhaps, the lesson Morgan provides. Scandinavia does well with an almost similar institution, and this suggests that it is not without merit. Its failures come more from attitudes toward government and the absence of a free press and multi-party elections as means of control than from inherent weakness in structure of the procuracy.

JOHN N. HAZARD

COLUMBIA UNIVERSITY

Revolution in Hungary. By PAUL E. ZINNER. New York and London, Columbia University Press, 1962.—xi, 380 pp. $6.00.

Extensive interrogations of some 250 people who fled Hungary formed one basis for Zinner's account. The brilliantly annoted bibliography reveals at once the painstaking search for facts and opinions as well as the lapses which endanger the reliability of the personal interviews. To protect friends still in Hungary has caused "responsible Hungarians . . . to conceal much information. . . . the most serious political refugees and those with the most inside information so far have had the least to say." In seeking the truth, the author has been able to utilize authoritative communist publications, especially as they differ from one edition to

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another, or to compare the Budapest with the Moscow-published source. Dr. Zinner was also aided by 1,100 pages of monitored broadcasts from Budapest and provincial radio stations between October 23 and November 5, 1956, when the speed of events and the chaos of revolt precluded newspaper coverage of political speeches or even of some of the important government proclamations.

Indispensable to the non-specialist who reads this volume is the listing of the *dramatis personae* in the index. Biographical footnotes are particularly revealing of family relationships, past deeds carefully hidden, ancient feuds, Moscow tutelage, betrayals to Nazi police, affiliations with Bela Kun, and other factors motivating and limiting the action of the ever-changing leadership of the Communists. The book's style is quite uneven, varying from staccato sentences to lengthy ones of carefully balanced structure. This reviewer, however, deplores two characteristics of style. One is the use of slang—"stooges," "zero in," "lower the boom," "take the heat off," and "hatchet man." The other is a lapse, usually encountered in footnotes, into the jargon of behavioralism: ". . . arbitrariness is a spurious form of normlessness. Unlike genuine normlessness, it reinforces rather than relieves the coercive element of institutional behavior. . . ." (p. 125). These minor defects are, however, more than compensated for in some vivid writing.

In the reviewer's judgment, Dr. Zinner underestimated the influence of Hungarian nationalism and of the Polish experiences in 1956, including the Poznan bread and freedom riots and the October 1956 showdown between Gomulka and the combined Khrushchev-Molotov-Mikoyan-Rokossovsky power. There appears to be an overemphasis on the effects of the Hungarian writers during the buildup and the crisis of October and November 1956. Indeed, they are described frequently as venal, corrupt, opportunistic, out of touch with the people, and overcome with torpor and lethargy.

One of the benefits to be derived from this careful exposition of the events leading to the final communist takeover is an appreciation of communist tactics and strategems. Obviously there is the possibility of their application to other comparable situations. Looking backward we see that coalition governments preceeded the communist victory in Poland, China, Czechoslovakia, and Hungary. The analogy may not hold in 1962, but if the experience of these other coalitions is any guide for the future, one is entitled to skepticism as to the future of Laos.

In pondering the significance of Professor Zinner's revelations

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of the internal weaknesses of a satellite government and party, one can perceive that materials for an Epilogue, too late to be contained in the book, are available. For in August 1962 the Hungarian government revealed the expulsion of both Rakosi and Gero from the party. Kiss at the same time was removed from the Politbureau. Rakosi's crime was bringing false charges against earlier leaders; Gero's was delay in rehabilitating those who had been liquidated by Rakosi. In mid-October of 1962, Gyorgy Marosan, characterized by Zinner as a renegade Social Democrat who betrayed the revolution, and who in November 1956 became a member of Kadar's government, was dropped from the Politbureau and the Central Committee. Perhaps Kadar, having weathered five winters since coming to power is attempting to prevent any possible subversion from earlier leaders whose names, reminiscent as they are of the Stalinist rule of terror, can scarcely adorn the present party apparatus. At the moment it appears that Rakosi, Gero, Kiss, and Marosan will escape the fate which, when in power, they did not hesitate to mete out to their opponents. This may be said to be progress. Only the future can tell whether the wheel of fortune may turn again for Kadar and his associates. Dr. Zinner shows what happened once when, as he so aptly puts it, it was "the party against itself."

WILLARD F. BARBER

UNIVERSITY OF MARYLAND

Three Intellectuals in Politics. By JAMES JOLL. New York, Pantheon Books, 1961.—xiv, 203 pp. $4.50.

The three intellectuals Mr. Joll elected to analyze here are Léon Blum, Walther Rathenau, and Filippo Tommaso Marinetti. In his Introduction (p. ix) he lists his reasons for linking and comparing their careers.

> They were all men who were aware that the development of machines and of mechanised industry had created a new age; and they were all concerned to come to terms with it. Moreover, they all belonged to a European intellectual and artistic world that was truly international, and, although they never met, they had friends and acquaintances in common. They were all men of ideas who were, in one way or another, compelled to go into politics because of the intellectual position they had reached.

Joll's three essays "originated in a study of Léon Blum," and the analysis of Blum not only comes first, it sets the pattern. Blum's evolution from a successful lawyer and literary critic to

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a practicing politician was hastened by the assassination of Jaurès and the pressures of World War I. He acquired political experience, but his convictions did not change. Although he has been criticized as a doctrinaire theorist, Mr. Joll believes that "his intellectual analysis had a firm empirical justification." His decisions when he headed the Popular Front ministry in 1936-37 are more defensible in retrospect than they appeared at the time. The French economic and social structure had not been adapted to twentieth-century needs. "One of the tragedies of Léon Blum's government was that it was the first administration since 1919 to attempt to carry out this adaptation."

The essay on Walther Rathenau's complex and disharmonic personality bears the subtitle, "Prophet Without a Cause." Education and inclination bound him to the age of Goethe and the vague but spacious speculations of romantic philosophers. But he was also a successful industrialist and electrical engineer. "It is as if two men were living in me," he wrote at forty-seven, "of whom one is growing, the other dying." He thought he was relinquishing the acquisitive urge and the claims of the external world, but in reality he craved a larger role in it.

As a Jew he had felt himself excluded from a political role in the Germany of William II. Under the Weimar Republic he agreed to become Minister of Reconstruction and then Foreign Minister. The Rapallo pact of April 1922, between Germany and Russia, with which his name is associated, he accepted reluctantly, and it exposed him, undeservedly, to the charge that he was pro-Bolshevik. Two months later he was assassinated by fanatical young German nationalists.

Unlike Blum and Rathenau, Marinetti won no political success; he "was out of place in any movement that became highly organized and pompous." His role as one of the organizers of the Futurist movement in art and literature drew him to Fascism in its early phase, but after 1919 he fell behind. Joll's essay on Marinetti is the shortest and slightest of the three. This is not surprising, for Marinetti lacked originality and his flamboyant gestures and inflammatory phrases seem in retrospect more than a little silly.

It is debatable whether one can find sufficient similarities in the characters and careers of Blum, Rathenau, and Marinetti to justify linking them in one volume. Mr. Joll regards all three as political misfits whose fate invites the speculation "whether the intellectual in politics is not always going to be doomed to failure because of the nature of his own virtues." This is a provocative generalization, but the three examples studied hardly

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bear it out. In politics, success and failure are relative terms. It might be argued that both Blum and Rathenau proved relatively successful in politics compared with Marinetti. It might also be argued that, where they failed, they failed because of defects, not because of virtues.

GEOFFREY BRUUN

ITHACA, NEW YORK

Modern Government: a Survey of Political Science. By DELL GILLETTE HITCHNER and WILLIAM HENRY HARBOLD. New York and Toronto, Dodd, Mead and Company, 1962.—xviii, 718 pp. $7.50.

This book is designed as a general introduction to political science. Political science is still to a large extent in the natural history stage of its development. Therefore its full exposition would involve an immense wealth of particular information as to political practices and a great variety of conceptualizations, each demonstrably relevant to the comprehension of only some segment of the empirical materials. In this situation a book of normal proportions presenting "political science" even in an introductory form is strictly an impossibility. Learners must, however, start somewhere, and the production of "introductions" is a commendable activity. Considered as workmanship on the part of its authors, the present volume can only draw the highest praise. It is scholarly, well organized, accurate, and in relation to United States and British institutions fairly comprehensive in coverage. Like other ventures of the same sort, however, its evaluation in practice is likely to be made according to what it stresses and what it leaves out.

The great merit of the present book lies in its presentation of the philosophy underlying modern democractic government. This is not merely developed in broad terms, but it serves also consistently to organize the empirical material. This philosophy is treated with sufficient sophistication so as to bring out the unexpected problems which the more naive assumptions of early democratic thought raise when one attempts to apply them in modern highly organized societies. The authors show the more subtle meanings which democratic principles have been given in the "liberal" as contrasted with the "populistic" tradition. While they thus relieve the strain of the attempt to apply democratic political conceptions literally to occupationally and organizationally complex societies, they do not—and could not without more innovation than would be justified in an introductory text-

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book—release the conceptions of even "liberal" democracy fully from their customary reference to a society containing many "independent" families, a type of society that those very countries where democracy is most successfully practiced left behind some fifty years ago. Hence they have to leave as a somewhat open question the applicability of "democracy" to a society in which the "common man" may be defined as the "non-expert."

The weakness of the book as an introduction to political science follows from the emphasis upon the philosophy of democracy, which also constitutes its strength. In so far as this material has great relevance to actually functioning political systems, it is mainly to some very few countries of the Anglo-Saxon and the Scandinavian traditions. Of itself, it does not much clarify totalitarian systems as operating social systems, though it shows clearly the discrepancy between their values and those of liberal democracy. This philosophical approach is perhaps even more unsuitable in clarifying the general fact that the political systems which prevail in most countries of the world normally rest upon mere contingencies of power, being neither genuinely democratic nor consistently totalitarian. A more factual and less normative presentation would probably give a student a better idea of "what politics is like," conceived of as a universal form of human behavior, but it would serve less adequately than the approach of this book to introduce the student to "what politics is all about" in countries like the United States.

G. LOWELL FIELD

UNIVERSITY OF CONNECTICUT

The Development of the Social Security Act: A Memorandum on the History of the Committee on Economic Security and Drafting and Legislative History of the Social Security Act. By EDWIN E. WITTE. With a Foreword by FRANCES PERKINS and an Introduction by WILBUR J. COHEN AND ROBERT J. LAMPMAN. Madison, Wisconsin, University of Wisconsin Press, 1962.—xvi, 220. $5.75.

Social Security Perspectives. By EDWIN E. WITTE. Edited by ROBERT J. LAMPMAN, Madison, Wisconsin, University of Wisconsin Press, 1962.—xx, 419. $6.75.

The Social Security Act of 1935 marking as it did the beginning of the national government's participation in a broad range of social insurance and public welfare programs is one of the great landmarks in the nation's concern with the conservation of human resources as well as one of the successes of the New Deal.

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The Development of the Social Security Act and *Social Security Perspectives* by the late Edwin E. Witte of the University of Wisconsin are invaluable for an understanding of the social security movement in general, and the Act in particular. Witte was a student of John R. Commons, the great American pioneer in the field of industrial relations, and like his teacher enjoyed extraordinary success as a policy-maker. This phase of his career reached an appropriate climax in his vital role in the achievement of the Social Security Act. As executive director of the organization that prepared the bill, President Franklin D. Roosevelt's Committee on Economic Security, and by his skill in helping steer the bill through Congress, he was a major architect of the Act.

The first book details these activities in the form of a memorandum which he prepared at the request of a committee of the Social Science Research Council in 1936. Witte was a candid man and a hard fighter, and these characteristics make the monograph all the more useful and interesting. The nature of a memorandum, however, necessarily precludes the elaboration that might have prevented some ambiguities. The reader will doubtless wish that there was a fuller account of the opposing views on such basic issues as a federal system of unemployment insurance versus "a state-federal cooperative system" which was adopted. It was a surprise to learn that the Committee hardly consulted the man who was rightly dubbed by the then professor and now Senator Paul H. Douglas, as the father of the American social security movement, Isaac M. Rubinow. Not least of the valuable revelations of the book is the portrayal of the difficulties of the Committee with its staff specialists. ". . . nearly all of them had their own ideas as to what should be done" and "some felt very hurt because their theories were not adopted *in toto*." Furthermore they set such standards of perfection that their reports were not completed in time to be of maximum use to the Committee.

The second book, *Social Security Perspectives,* is a collection of Witte's most important previously published or delivered papers and addresses, from 1928 to 1959, along with his complete bibliography on social security. The collection is in part a further contribution to the history of the social security movement, especially in connection with old age, unemployment, and the costs of illness. The essays also present what one of the most balanced thinkers in the field believed would be desirable improvements and extensions. From the start, Witte strongly advocated a moderate contributory system of compulsory health insurance, and he repeatedly warned that failure to enact such a measure was resulting in ever-increasing free medical care of all kinds at the

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taxpayers' expense. But realizing the difficulties of securing such an act in the immediate future, he supported voluntary health insurance as the main reliance against rapidly increasing health care costs, provided it was extended and improved.

He also sharply warned against those extremists who would make the social security system primarily an instrument for alleviating and preventing recessions and depressions, through what was called the maintainance of purchasing power. Witte, after pointing out that the legitimate aim of social security was to insure "a necessary minimum income on the occurrence of the personal hazards of life," contended that "the degree to which purchasing power is maintained is one of the best by-products of social security but not its central purpose." Similarly he noted that "some redistribution of income undoubtedly is involved in all social security programs," but this was "only one of its results, and not its principal objective." In all this, as in his work in labor relations, Witte proved a socially effective practitioner of the institutional economics of his teacher.

JOSEPH DORFMAN

COLUMBIA UNIVERSITY

BOOK NOTES

The reputation of the late Sir Lewis Namier as an historian is based, naturally enough, upon his writings in the field in which his most important researches were carried on, namely, English political history in the early part of the second half of the eighteenth century, the "Namier Period," as it has come to be thought of by the cognoscenti in that domain. His two most influential books have been, without much doubt, *The Structure of Politics at the Accession of George III* (published in 1929) and the first volume (1930) of a projected study of "England in the Age of the American Revolution" that for various reasons, especially time-consuming work with the Jewish Agency for Palestine in which he was engaged for several years, he did not complete. He wrote, however, many essays, articles, and reviews and delivered sundry public lectures; and most of the volumes that carry his name as author are collections of such shorter pieces, many of them by-products of his major historical investigations. His interest in the exciting events and revolutionary developments of the times through which he lived—for he was no cloistered re-

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cluse—gave rise to a considerable quantity of his published writing, but it is probably not with this that "the history of history" will concern itself very much. There is at present under way a publication of "The Collected Essays of Sir Lewis Namier," the first volume having appeared before his death, which occurred in August 1960. The second volume, entitled *Crossroads of Power: Essays on Eighteenth-Century England* (New York, The Macmillan Company, 1962; viii, 234 pp., $5.00), has come out under the copyright of Lady Namier. It consists of twenty essays, of which all but one are reprints, and several had been previously reprinted. A few of them, originally published before Namier won fame in the historical world, seem especially noteworthy as showing that historical interests he never lost were aroused early. Thus in a short book review which appeared in *The Spectator* in 1926 he wrote: "A series of monographs about minor Members of Parliament [he had in mind the years around 1760], whose names and ideas are hardly ever considered and whose influence is usually underrated, would yield a different picture of one of the most gifted, active, inventive generations in British history. . . ." To those who know something about the leading part he was to play in his later years in the great project of a History of Parliament, now in process of gestation, these suggestive words may sound prophetic.—ROBERT LIVINGSTON SCHUYLER, Rochester, New York.

Helmut Schmidt's *Defense or Retaliation: A German View,* translated by Edward Thomas (New York, Frederick A. Praeger, 1962; xvi, 264 pp., $7.00), is a perceptive if not brilliant analysis of Western strategy for the defense of Europe—its necessity, its evolution, its strength, and, in particular, its limitations. The author, a leading member of the German Social Democratic party, writes clearly, realistically, intelligently. Perhaps the most provocative feature of *Defense or Retaliation* is its cogent and informed critique of the weaknesses—in philosophy, structure, manpower, and equipment—of the North Atlantic Treaty Organization. The particular *bête noire* of the author is the failure of Western strategists to create forces which are capable of fighting the type of limited war which is most likely to occur, and in response to which a nuclear Armageddon would be insane. In addition, there is a valuable discussion of the possibility of arms control and limitation in central Europe—the author's version of "disengagement"—which is correctly viewed as part of a strategy of defense. Unfortunately, some portions of the book, which was first published in Germany in 1960, are outdated. Others are

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somewhat pedestrian, in subject matter if nothing else. Nevertheless, this is on the whole a shrewd and at times an acute work. While its original and perhaps most useful purpose is "to give the German public a better picture of the strategic situation," it also contains much that is of value for Americans, or others, who are concerned with the evolution of a military strategy for NATO which can effectively meet any challenge.—WILFRID E. RUMBLE, Vassar College.

The revolutionary events of 1956 in Hungary elicited and stimulated a sharp upsurge of Western interest, as is evidenced by the appearance since that heroic and tragic year of a number of one-volume histories of Hungary in Western languages. The most recent of these—*Hungary: A Short History* (Chicago, Aldine Publishing Company, 1962; ix, 262 pp., $4.50), by C. A. Macartney—is written with that terse style, narrative flair, and controversial verve which characterize the several books on Hungary and East Central Europe to have emerged from Professor Macartney's mind and pen since the 1920's. As might have been expected, the best, most stimulating, and clearest sections of the current volume are those in which the author condenses the results of his own original researches into the two periods of Hungarian history which he has made his specialties: the Middle Ages and the decades between the two World Wars. These chapters are not so much summaries of the available scholarship as skillful, abbreviated presentations of the author's major scholarly argumentations as these have been presented in a series of earlier monographs and histories. The other parts of the present volume are concise and clear presentations of the history of the Hungarians in which these are seen as victims—of the Ottomans, of the Habsburgs, of the Versailles powers, of the Soviet Union. It is perhaps to be expected that in a short one-volume history of a nation the author is likely to identify with and become a champion of his subject, particularly when, as in this case, he is one of the few Western scholars who command fluency in the difficult Magyar tongue. It should, however, be pointed out that this view of the Hungarians as prey of the aggressions of others is not one which is shared by their Austrian, Slovak, Ruthene, Rumanian, Serb, or Croat neighbors. Thus, despite his deliberate striving for scrupulous scholarly objectivity, Professor Macartney is rather cavalier in his analysis of the grievances and politics of the South Slavic peoples in the historic Hungarian kingdom and excessively gentle toward the Magyar leaders who drove these and other ethnic minorities into disaffection and animosity.—JOSEPH ROTHSCHILD, Columbia University.

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IN MEMORIAM

Austin P. Evans

Austin Patterson Evans was born in Brooklyn, New York, in 1883. He received his B.A. at Cornell University in 1911, and, under the direction of George Lincoln Burr, his Ph.D. in 1916. Mr. Evans joined the faculty of Columbia University in 1915. He then served overseas in 1918–19, gaining the Croix de Guerre. Returning to the University, he reached the grade of professor in 1931 and remained at Columbia until his retirement in 1952. Mr. Evans also served as an administrative officer, being chairman of the Committee on Instruction of the Faculty of Political Science and twice chairman of the History Department. A member of many learned societies, Mr. Evans became a fellow of The Mediaeval Academy of America in 1948, and was subsequently elected president of the Academy for the term April 1954–April 1957. His principal scholarly interest was the history of heresy. In 1924, his first publication concerned the Sectaries of Nuremberg (1524–28), and, in 1958 and 1962, his last published work dealt with the Inquisition and the Albigensian Crusade. He also served as editor of the *Records of Civilization* from 1925 to 1954. By the latter date, fifty-two volumes had been published under his editorship, including one by himself and Clarissa P. Farrar. After his retirement, he continued to see volumes begun under his sponsorship through the press, and, together with Professor Walter Wakefield, prepared one of his own for inclusion in the series. Mr. Evans died at Barnard, Vermont, on September 20, 1962. His loss is deeply felt by the Columbia community and by his many faithful students. Mr. Evans' probity, diligence, and devotion to duty have left a mark upon all who worked with him.

In the midst of the frequent attacks that felled him during his last summer, Mr. Evans smilingly remarked that he did not want his colleagues at Columbia to be told that he was obliged to keep to his bed, a sentiment reminiscent of what John Calvin was reported to have said when pressed by friends to put his work aside for the sake of his health. "Would you," said Calvin, "that the Lord should find me idle when He comes?"

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Garrett Mattingly

Garrett Mattingly was born in Washington, D.C., on May 6, 1900. From Harvard he received the A.B. in 1923, the A.M. in 1926, and the Ph.D. in 1935. As an undergraduate he majored in English literature; as a graduate student he shifted his main interest to history. He served as an instructor at Northwestern University from 1926 to 1928; at Long Island University, between 1928 and 1942, he rose from instructor to associate professor. He had served in 1918–19 with the 43rd Infantry, and when the Second World War came, he enlisted in the Naval Reserve, serving from 1942 to 1945 as a lieutenant commander. In 1946, he returned to academic life as professor of history and head of the division of social philosophy at Cooper Union. Two years later he came to Columbia as professor of history, and in 1959 he was named to the William R. Shepherd professorship. He held the Sheldon Fellowship from Harvard in 1922–24, and three Guggenheim Fellowships, the last in 1960–61. In 1960 he became a Fellow of the Royal Society of Literature; in 1962 he received the honorary Litt. D. degree from Wesleyan University; and he was named George Eastman Visiting Professor at Oxford for 1962–63, a post he held when he died on December 18, 1962.

His death cut short a career which, according to the usual criteria of teaching and scholarship, was unusually distinguished. At Columbia, his courses dealt in turn with political and diplomatic history of early modern Europe, Tudor and Stuart England, and the expansion of Europe. Fifteenth-century Portugal could easily engage him for a semester; technical developments in the sailing ship for a week of lectures; yet there was no sign of pedantry, and no student was ever bored or lost in details. His manner in lecturing was deliberate, yet dramatic; his puckish wit and, at times, a humorous detachment from his subject and even his audience reflected not levity but the most profound seriousness. Garrett Mattingly could not abide solemnity, and he would not suffer fools; but his criteria for dismissal were never orthodox, and he could draw suggestions and stimuli from writers whom more conventional historians pass by with no notice or professional disdain. He was never capricious or arbitrary, always gentle and humane. Students who were close to him loved him, and for those who came no closer than the lecture hall or the examination room there remained the abiding respect touched with affection from which academic legends grow.

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Happily, Garrett Mattingly's influence was far wider than that of many other great teachers. He was one of a handful of masters in the scholarship of his broadly bounded field of interest, and of those he was probably the finest literary artist. He was a painstaking, slow, and endlessly self-critical writer; the results were invariably stimulating, smooth, and masterful. Narrative history is somewhat at a discount today among historians; Garrett Mattingly was supreme in that style, bringing to it a dramatic instinct and a sense for telling detail and revealing incident probably unmatched in our generation. He added to those characteristics an analytical power and an unfailing freshness of approach which have made his three books classics. *Catherine of Aragon* was published in 1941; *Renaissance Diplomacy,* which he considered his most important work, appeared in 1955. In 1959, he published *The Armada,* a brilliant retelling of a famous and crucial episode in a wide context of European events which no other historian could have controlled as he did. The book brought him wide popular acclaim and a number of honors, including a special Pulitzer citation in 1960. At his death, he was working on two books on the Italian Renaissance; that they will never be published is one of the genuine tragedies in the world of learning.

There was a wonderful appropriateness in Garrett Mattingly's association with Columbia. Our university proudly proclaims that it is in the City of New York; Garrett Mattingly, by adoption and choice, was also in the City of New York. His friends were not only academic colleagues, but writers and artists; his knowledge and taste were exact in literature, music, painting, food, and wine. Never a cloistered scholar, he was a man whose enjoyment of and passion for civilized life could be satisfied only in a large and cultured metropolis. In him, two ages built on cities joined. He embodied, perhaps as well as it can be done in our hurried and specialized time, the ideals of excellence, culture, and gentility which are our largely unrealized heritage from the Renaissance he studied. For Columbia, his death has meant not only the loss of an indispensable colleague, not only a blow to scholarship and letters, but the drastic diminution of the stock of humanity in which we can sense greatness among us.

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